

EXHIBIT 3

DKT NO: X06-UWY-CV186046436-S : COMPLEX LITIGATION DKT
ERICA LAFFERTY : JUDICIAL DISTRICT WATERBURY.
v. : AT WATERBURY, CONNECTICUT
ALEX EMRIC JONES : SEPTEMBER 6, 2022

DKT NO: X06-UWY-CV186046437-S

WILLIAM SHERLACH

v.

ALEX EMRIC JONES

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WILLIAM SHERLACH

v.

ALEX EMRIC JONES

MOTIONS

BEFORE THE HONORABLE BARBARA N. BELLIS, JUDGE

A P P E A R A N C E S :

Representing the Plaintiff(s):

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EXHIBIT

3

1 THE COURT: All right. Good morning, everyone.
2 This is Judge Bellis, we're on the record in the
3 three Lafferty versus Jones related matters. Lead
4 docket number 18-6046436. If counsel could please
5 identify themselves for the record.

6 ATTY. STERLING: Yes, your Honor. Alinor
7 Sterling for the plaintiffs, and with me are my
8 colleagues Matt Blumenthal and Chris Mattei.

9 ATTY. PATTIS: Good afternoon, Judge. Norm
10 Pattis for Free Speech Systems and Alex Jones.

11 THE COURT: Thank you. All right. So just by
12 my count we have 11 sets of motions to get through
13 this afternoon. I did see some recent filings, and
14 so my first question is whether Attorney Pattis has
15 had an opportunity to review them.

16 ATTY. PATTIS: Attorney Sterling, Judge, gave me
17 a heads up an hour and half or so, and we reviewed
18 them orally. I'm prepared to argue them, even though
19 I've not yet studied them, but I'm confident that
20 I've been adequately briefed and understand the
21 issues.

22 THE COURT: Okay. So two issues with jurors.
23 So - and I prefer not to state names, so hopefully we
24 can avoid that. But, alternate number 5. Our last
25 alternate. Although she never raised an issue with
26 us, contacted Mr. Ferraro and is claiming an extreme
27 hardship because she will only get paid for two

1 weeks. I will also tell you that the juror that we
2 were waiting to hear back from, alternate juror
3 number 3. Has gotten back to Mr. Ferraro. He will
4 only get paid for four weeks, and he's claiming a
5 hardship. He also apparently works a second job,
6 which I don't think we heard. So I've been giving it
7 some thought. I mean if we excuse both, it sounds
8 like we're going to have to pick another alternate.
9 But I wanted to just briefly explore the issue of how
10 long the trial is going to be. Because I'm wondering
11 if in fact it ends up being only four weeks, if we
12 can just keep alternate number 3.

13 So I think I probably overestimated the length
14 of trial. So I think what I'm possibly putting out
15 there is, if everyone agrees, and I'm not asking you
16 to agree with me because I don't know. But if we
17 think that we can get it done within the four weeks,
18 we can tell him that we overestimated and that we
19 think it will be done in four weeks. And if in fact
20 there are delays, we could always excuse him after
21 the four weeks if he chooses to opt out. So that's
22 one thought.

23 So Attorney Pattis, why don't I start with you
24 for a change, and see what your thoughts are on
25 alternate number 3 and alternate number 5.

26 ATTY. PATTIS: Well, alternate number 5, Judge,
27 it's unfortunate that it seems to me that the way

1 this has been going, an ex post facto claim of
2 extreme hardship's been enough, I think in at least
3 one other occasion. So I would defer to the Court on
4 that. I wouldn't object if the person were excused.
5 As to number three. Judge, I think I have to defer
6 to Attorney Mattei because he's got the bulk of the
7 evidence. My case now I suspect will take two days.
8 Earlier I thought three or four. I haven't seen the
9 plaintiffs exhibit list yet. We exchanged them
10 today. But I've got a pretty good idea what's in it.
11 But Attorney Mattei and I have had discussions about
12 whether they were going to call all the experts
13 they've disclosed and so forth. And so I think I
14 have to defer to him, Judge. I think four weeks is
15 tight from my prospective. They're four-day trial
16 weeks. On the theory that Murphy's Law applies,
17 we're likely to lose a day or two for one thing or
18 another.

19 THE COURT: All right. Attorney Mattei.

20 ATTY. MATTEI: Your Honor, I think that we are
21 going to be able to do it in four weeks. Our case,
22 as often happens as we approach trial is slimming.
23 And I think that your suggestion of kind of keeping
24 him on, and if it appears that we're going to go into
25 a fifth week, giving him the option at that point, it
26 may be that having sat on the jury for four weeks, he
27 wants to stay if we go into a fifth week.

1 I have shared the Courts concern from the
2 beginning, that we want to make sure that we can get
3 to the end with six jurors. And so my thought is to
4 keep him, given my expectation that I think we will
5 be done within four weeks. And if not, only very
6 slightly over.

7 ATTY. PATTIS: Judge, may - did our potential
8 juror give any indication about the nature of his
9 second job? Is he going to be able to defer it and
10 give us his full attention and so forth? And get
11 enough sleep, you know -

12 THE COURT: I suppose we can have Mr. Ferraro
13 get more information. But my thought was, he didn't
14 raise it at all, and I think his main concern was the
15 full-time job that he would get paid in full for four
16 weeks for. So, I think it sounds like we all agree
17 to let alternate number 5 go based on her claim of
18 hardship. Is that correct? So we'll do that.

19 ATTY. MATTEI: Right. I didn't mention juror
20 number 5, Judge, but that's fine. Yes.

21 ATTY. PATTIS: Yes.

22 THE COURT: Okay. And so why don't we do this.
23 Why don't we have Mr. Ferraro reach out to alternate
24 number 3 and give him - tell him that we believe we
25 might be able to get it done in the four weeks, and
26 that if it does in fact go longer than the four
27 weeks, he can immediately opt out. And if he is

1 agreeable with that, Ron will - Mr. Ferraro will let
2 me know, and if he's not, I will report back to you.

3 My only concern is if we lose someone else. One or
4 two people before now and Tuesday. And you never
5 know with Covid and everything else. The only time
6 that I can see to pick is Monday if we really need
7 to. Does anyone have a real problem with Monday, if
8 we needed to pick another alternate?

9 ATTY. MATTEI: If we have to Judge, we'll be
10 there.

11 ATTY. PATTIS: Yeah, I'm in the same - I mean -

12 THE COURT: Nobody wants to. Right.

13 ATTY. PATTIS: Knocking on wood here. Covid is
14 moving through my office knocking off one lawyer at a
15 time. Fortunately, my office is separated from
16 everyone else's. They - so, hopefully I'll be fine.

17 THE COURT: All right. So why don't we see what
18 happens with alternate number 3. And we may not have
19 any problems, and we may have a full panel, but we
20 will definitely know. Maybe Ron, you could make the
21 calls Thursday, so that we will know Thursday night
22 or Friday morning whether we're going to have to pick
23 on Monday. Okay.

24 THE CLERK: Sure, your Honor. I was planning on
25 calling him today if we're done before five, or I
26 will call him tomorrow morning.

27 THE COURT: Okay. All right. That sounds like

1 a plan. Then the only other housekeeping thing I had
2 on my agenda was, to address the plaintiff's
3 objection to the media coverage. So what we need to
4 do is slot a time for that and then notify the media
5 representatives.

6 ATTY. PATTIS: I missed that filing. Is there a
7 docket number on that?

8 THE COURT: There is.

9 ATTY. STERLING: Your Honor, Attorney Sterling
10 for the record. Are you referring to the sort of
11 paragraph long filing we made, where we said that it
12 was possible some of our clients -

13 THE COURT: Yes.

14 ATTY. STERLING: I think that we have worked
15 through that, and the Court doesn't need to address
16 that. We're not going to object to the media
17 coverage.

18 THE COURT: Okay. So we can cross that off the
19 list. All right. So any - before I get to these 11
20 sets of motions here, any housekeeping issues,
21 Attorney Pattis, from your end?

22 ATTY. PATTIS: No. I think Attorney Mattei and
23 I have been in extensive communication trying to
24 arrange - trying to reach agreements on everything
25 possible. So I don't think we need - I don't
26 perceive us as needing Court intervention at this
27 point.

1 THE COURT: All right. You agree, Attorney
2 Mattei? You're muted.

3 ATTY. MATTEI: Yeah. At this point I don't
4 think we have any housekeeping matters other than,
5 your Honor, I'm not going to be arguing today. Would
6 it be all right if I shut off my video while I kind
7 of observe?

8 THE COURT: I don't see why not. Who's arguing,
9 Attorney Sterling or Attorney Blumenthal, or you're
10 taking turns?

11 ATTY. STERLING: Your Honor, Attorney Sterling.
12 I have the bulk of it. Attorney Blumenthal has two.

13 THE COURT: Okay. Which two do you have,
14 Attorney Blumenthal?

15 ATTY. BLUMENTHAL: Your Honor, I have the motion
16 to compel regarding the Dew Bidondi text, and I have
17 the motion in limine, or objection to the motion in
18 limine, regarding anti-government extremism and white
19 supremacy.

20 THE COURT: Thank you.

21 All right. So because we are up to entry
22 number, I think 965. I just want to make sure for
23 each set of motions that I am ruling on the exact
24 right motion, and the exact right objection and
25 reply. And that I've reviewed everything. And I
26 think with the - I was able to review the recent
27 filings. I was more concerned about Attorney Pattis.

1 But I think when it comes to the recent filings, you
2 will definitely need to correct me with respect to
3 some of the entry numbers, because I have a long
4 list, and I did not correct and add in the new entry
5 number.

6 So I have a certain spread across my whole desk
7 here, and I would like to - I'd like to take it in
8 the order that I've sort of spread it out. So
9 hopefully you all can work with me on that. So what
10 I have first, and this would be with Attorney
11 Sterling. I have - and again, I definitely want you
12 all to correct me with your entry numbers. And this
13 is regarding the requests for admissions. So I have
14 the plaintiffs' motion to compel entry number 923.
15 Then I have the defendant's objection at 941. And I
16 have the plaintiffs reply at 953.

17 ATTY. STERLING: And your Honor, which motion to
18 compel is this? I just -

19 ATTY. PATTIS: The request -

20 THE COURT: I have the - regarding the request
21 for admissions dated - this is your underlying motion
22 is 923, dated August 16th. And I understand that
23 it's now limited to one request, which is number 244.
24 And the -

25 ATTY. STERLING: Your Honor, that's -

26 THE COURT: Okay. So this is not an objection
27 that was made, it was an insufficient knowledge

1 answer. Okay. So Attorney Sterling, do you have
2 anything that you want to say about this?

3 ATTY. STERLING: Well, first let me, your Honor,
4 go through the docket numbers, confirm them back to
5 you. So I have 923, the motion to compel adequate
6 answers. Responded to in docket number 941, which is
7 the omnibus response. And then there is a reply,
8 which is docket number 953. Okay. There isn't a lot
9 to cover here, your Honor. And the request was 244
10 to the content of each of the foregoing videos was
11 broadcast by some or all of the following media.

12 It's already - so and then per - there's an
13 affidavit. I think the defendants already agreed to
14 consider this response an answer. So I mean, I think
15 - I think we should have an answer here. There's
16 also a stipulation regarding the authenticity of all
17 the videos in issue. It's really not in dispute that
18 they were broadcast. So it seems to me it should be
19 admitted. I'm not sure what the remaining issue is
20 on the defendants' side.

21 THE COURT: I don't know either. Attorney
22 Pattis.

23 ATTY. PATTIS: So I - initially we had some
24 discussions about this. We entered a stipulation
25 that all of the videos that we produced are authentic
26 and they'll be no need to authenticate them. One of
27 the problems with the case is being - my client's

1 inability to tell what was broadcast where. And so I
2 understand what Attorney Sterling is saying. If
3 we're not going to object to their authenticity, why
4 are being coy or hesitant about where they were
5 broadcasting. And the fact is, we simply don't know.
6 I mean and I don't know - and hence insufficient
7 knowledge. And there's no means to find out. Much
8 to my surprise in working with these clients over the
9 years, there is no central registry log or database
10 that you can consult.

11 THE COURT: Well, Attorney Pattis, normally I
12 would say that there's a response to part of the
13 inquiry. But here, the whole entire inquiry and each
14 sub-part was a no knowledge. It would seem to me
15 that some of it could be responded to. No?

16 ATTY. PATTIS: Possibly. But it's going to be
17 speculative. If it's directed to Alex Jones, I mean,
18 I don't think he knows. I genuinely don't.

19 ATTY. STERLING: Your Honor, for the record,
20 Attorney Sterling. If I may? The request over 244
21 asks for the admission. The content of each of the
22 foregoing videos was broadcast by some or all of the
23 following media. Not all.

24 THE COURT: Right.

25 ATTY. STERLING: So -

26 ATTY. PATTIS: I get that -

27 THE COURT: I understand that, Attorney

1 Sterling. That's why I asked Attorney Pattis why we
2 don't have a partial answer.

3 ATTY. PATTIS: I don't know that he knows. I
4 mean he says he doesn't know. So we're not trying to
5 stonewall anyone here, but by stipulating to the
6 authenticity of them, we've given what I can. I'm
7 not going to dispute that what I gave them is
8 authentic. But I don't think Alex knows.

9 THE COURT: But isn't it not just what he knows
10 that he has an obligation to find out the information
11 within his power?

12 ATTY. PATTIS: Good luck with that, Judge.
13 We've been defaulted for a reason. I don't think it
14 - and I didn't mean to be glib or sarcastic, I saw
15 you raise your eyebrows. I wasn't trying to be
16 sarcastic. There is just no their, their, when it
17 comes to an internal organization, or ability to
18 reconstruct historic facts.

19 THE COURT: Do I think when I look at this there
20 is an obligation to - there's clearly some part of
21 this that can be admitted. I'm sure based on what
22 you're saying that some part of it is a no knowledge.
23 Whether some part can be denied, I don't know. But,
24 I don't - I understand that, and I accept your
25 representation that Mr. Jones personally can't answer
26 the entire question fully. But it would seem to me
27 that at least part of it can be responded to.

1 So, I think what I'm going to do here is, order
2 that an amended answer be filed on or before
3 September 8th. And otherwise the matter that's not
4 responded to will be admitted - deemed admitted.

5 ATTY. PATTIS: May I request of Attorney
6 Sterling, that she send me that in a separate
7 pleading as a new request to admit, just number 244,
8 for ease of transmission to people who are going need
9 to review it.

10 ATTY. STERLING: That's fine. Of course.

11 ATTY. PATTIS: Thank you.

12 THE COURT: So just bear with me, please?

13 So I would like to take up next - and again, we
14 just need to triple check these entry numbers. The
15 plaintiffs' motion for order. And this is on the
16 issue of the Free Speech Systems and PQPR. I have
17 that at entry number 926. I have the defendant's
18 objection at 941. And I have the plaintiff's reply
19 at 951.

20 ATTY. PATTIS: Judge, the plaintiff's reply?
21 I'm sorry, you cut out.

22 THE COURT: 951.

23 ATTY. PATTIS: Thank you.

24 THE COURT: But I just want them confirmed if
25 you don't mind.

26 ATTY. STERLING: Yes, your Honor. Attorney
27 Sterling here. And sorry your Honor, I keep stepping

1 out of the camera because my sort of rainbow of
2 motions is spread just outside camera reach.
3 So I have this is 926, the motion. Line 41, the
4 omnibus response. 951, the reply in support.

5 THE COURT: Okay. So whenever you're ready,
6 please?

7 ATTY. STERLING: Yes, your Honor.

8 So, this is really straight forward, and there
9 are a couple motions like this. This is a situation
10 where Attorney Brittany - excuse me, this is - sorry.
11 Apologizes. This is Alex Jones testimony
12 establishing the existence of a management agreement
13 between PQPR, or a management agreement for PQPR.
14 That's testified to by him. It's also testified to
15 by Lydia Hernandez.

16 We requested the production of that management
17 agreement. The management agreement is significant
18 because the Jones defendants are claiming that PQPR
19 is an independent corporate entity. That does not
20 appear from the evidence to be the case at all. So
21 having the management agreement would allow us to
22 cross-examine their contention that it exists
23 independently. The failure to produce it, indicates
24 otherwise.

25 So what we've done, your Honor, is we moved to
26 compel. Nothing has been produced. The response is
27 that counsel has been advised that it does not exist.

1 And so - but that's just contrary to the sworn
2 testimony in the case. So what we've requested is a
3 sanction, and this would be a sanction under 13 14 3
4 or 13 14 4. 13 14 4 allows the Court to preclude the
5 entry and evidence of certain matters. 13 14 3 gives
6 the Court the ability to take some matters as
7 established.

8 THE COURT: Attorney Sterling, I -

9 ATTY. STERLING: Yes.

10 THE COURT: - want to interrupt you. So, I read
11 this motion as asking for an order that it be
12 compelled. What did I miss?

13 ATTY. STERLING: We did ask for an order that it
14 be compelled. There was then a representation by
15 Attorney Pattis, that it can't be produced. In our
16 reply we then requested a sanction.

17 THE COURT: All right. So go ahead. I
18 interrupted you.

19 ATTY. STERLING: Okay.

20 So what the sanction, your Honor, should be is
21 that it is taken as established that Free Speech
22 Systems and PQPR are not independent entities.
23 They're one in the same. And that's the - you know,
24 that's the core issue that we're dealing with here.
25 That's what we were trying to explore. That's what
26 we can't explore because we're not able to get the
27 management agreement.

1 THE COURT: All right. Attorney Pattis, the
2 ball's in your court. But I have to agree with the
3 movant on this, that what we have are I suppose as
4 evidence under oath from Ms. Hernandez and Mr. Jones,
5 that there is an agreement and that I merely have
6 unsupported statements that it doesn't exist. Are
7 you in a position that you are going to be submitting
8 some evidence? Should there be an evidentiary
9 hearing on this? Because I'm not -

10 ATTY. PATTIS: I can -

11 THE COURT: - going to just consider it's not
12 proper for me to just consider unsupported
13 statements. So what do you suggest?

14 ATTY. PATTIS: I will get an affidavit from the
15 debtor in possession, Free Speech Systems. He
16 checked his files. I'm in a better position post-
17 bankruptcy then I was before, because there's a
18 management team in there trying to create structures
19 of accountability and whatnot. I'm told that there
20 is none - no such thing. And so if the - and I will
21 be happily - I will happily get you a brief affidavit
22 that Mr. Schwartz has searched and cannot find it.
23 If it exists.

24 THE COURT: All right. But then I think we have
25 an evidentiary hearing, because Mr. Schwartz, what is
26 his role?

27 ATTY. PATTIS: He's the management consultant

1 for the debtor in possession in the bankruptcy.

2 THE COURT: Right.

3 ATTY. PATTIS: And so he is effectively the
4 manager of the entity right now.

5 THE COURT: I understand. But it would seem
6 that he's even further removed from - it would seem
7 that Mr. Jones would have knowledge and be more
8 familiar with it. So I suppose when we - if we have
9 an evidentiary hearing, and I have to weigh the
10 evidence, that's going to be an issue. And Ms.
11 Hernandez. Refresh my memory as to her role.

12 ATTY. PATTIS: Home or business office person,
13 for lack of a better word, who had personal knowledge
14 of the relationship and the cash flow. And
15 apparently saw at some point, what she testified was
16 a management agreement between Jones and PQPR. Or at
17 least FSS and PQPR.

18 THE COURT: All right. So just tell me
19 procedurally how you want to proceed here because we
20 are on the eve of trial. So I assume I have what I
21 have. I assume Attorney Pattis will get something
22 that says in essence, I looked, and I couldn't find
23 anything. And then I'll have to weigh the evidence.
24 Are we going to have - are you wanting to rely on
25 affidavits, or you're wanting an evidentiary hearing
26 on Monday? Tell me what your proposal is.

27 ATTY. PATTIS: I'd rely on the affidavit's,

1 Judge. I mean, I think - I mean, candidly it depends
2 on what the stakes are. I mean my view is that
3 frankly it would support my claim that they were
4 independent entities to find this agreement if there
5 is one. Because you don't make an agreement in
6 writing with yourself. So the sanction seems
7 counterintuitive to me.

8 In the absence of it, I don't know how we prove
9 that - I don't know how we establish that they're not
10 independent. That seems like a logical leap to me.
11 It strikes me that if we don't produce it, that's
12 cross - for cross-examination of Mr. Jones. Who
13 apparently once testified that he saw it and will - I
14 presume testify now that he doesn't have it. Doesn't
15 know where it is.

16 So I - if the Court - I mean it is a central -
17 it is a hotly contested issue, the degree to which
18 FSS and PQPR interact. And there has been an IRS
19 finding on that, just within the last several days.
20 I have not seen a writing to that effect yet. So
21 they are in fact independent of one another, at least
22 from the eyes of one federal agency. The plaintiffs
23 need to establish that they're not to eliminate a
24 source of debt and try to inflate the net worth of
25 the conglomerated entities.

26 So I don't want to give that issue up without a
27 fight. But if my witnesses say it doesn't exist, I

1 don't know what else I can do.

2 THE COURT: Right. Well, if I were ruling on it
3 right now, I would - the only evidence that's before
4 me are - is the testimony that was mentioned of Mr.
5 Jones and Ms. Hernandez. So I could rule now, but
6 what I'm trying to do is, give you an opportunity to
7 support your position -

8 ATTY. PATTIS: Well, we'll take the
9 opportunity -

10 THE COURT: - with some evidence.

11 ATTY. PATTIS: We'll take the opportunity. We'd
12 also ask you to consider rejecting it as untimely.
13 We're on the eve on trial. There's no reason this
14 couldn't have been done long ago. And I've got
15 plenty to do to get ready for next week, and I'm not
16 looking to gather more affidavits.

17 But if the Courts not persuaded by that
18 argument, I'd ask for a brief period to get these
19 affidavits.

20 ATTY. STERLING: Your Honor, may I - may I -

21 THE COURT: Sure.

22 ATTY. STERLING: So we are late. This was filed
23 some time ago, and it really does require an
24 affidavit responding to it.

25 THE COURT: Well, that's - I - we covered that.

26 ATTY. STERLING: Exactly, your Honor. But so
27 what I am saying is, if the defendants are going to

1 be given an opportunity to provide the Court with an
2 affidavit, we'd really like to see it right away.
3 Because I can't judge whether we need an evidentiary
4 hearing until I see the affidavit.

5 ATTY. PATTIS: Well, Alinor, I'll tell you what
6 it's going to say. I mean, it's not going to say any
7 more than I am Mark Schwartz, I became debtor in
8 possession or whatever his title is on such and such
9 a date. I have complete access to the files. I was
10 approached on such and such a date to look for such
11 and such a document. I have diligently inquired and
12 made inquiries through others. I find no evidence
13 that there is - I find no document, do not believe
14 there is one. That's what he's going to say. And
15 what Alex is going to say, we'll find out. It's not
16 going to be any more than that.

17 THE COURT: All right. So I would say any
18 counter affidavit, or I mean - was there any other
19 deposition testimony, Attorney Pattis, that you would
20 have wanted to submit, that you didn't submit?

21 ATTY. PATTIS: No.

22 THE COURT: Okay. So any counter affidavit on
23 or before the close of business tomorrow.

24 ATTY. PATTIS: Judge, I'm in the State Supreme
25 Court tomorrow morning, and going to lose part of the
26 day. Is it possible to give me until Thursday?

27 THE COURT: Okay. That's the 8th.

1 ATTY. PATTIS: Yes, ma'am.

2 THE COURT: And Attorney Sterling, you may want
3 to respond to the affidavit. If it says nothing more
4 than what Attorney Pattis represented, and I accept
5 his word, I'm not imagining you're looking to respond
6 or have - and Attorney Pattis is not asking for an
7 evidentiary hearing.

8 ATTY. STERLING: No.

9 THE COURT: All right. So I'm going to rule on
10 it either the night of September 8th, or the next
11 morning. But if it does - if it has any material
12 detail that's different, I will let Mr. Ferraro know
13 and he'll reach out and we'll see what we're going to
14 do.

15 ATTY. STERLING: Thank you, your Honor.

16 THE COURT: Okay. So Attorney Blumenthal, I
17 think this is you. So I now have the plaintiffs
18 notice or motion regarding the Dew Bidondi text. I
19 have that at 929. I have the defendant's omnibus
20 objection at 941. And I have the plaintiffs reply at
21 945. But again, I don't know if any of the new
22 filings are going to change any of these entry
23 numbers.

24 ATTY. BLUMENTHAL: That sounds - those are
25 correct, your Honor. Your underlying - well, our
26 underlying motion was at 875. Your order was at
27 875.20. And the defendant's objection to the

1 original motion was at 882. And your docket numbers
2 otherwise are correct.

3 THE COURT: All right. So we have my ruling.
4 We have no production and you're now going to address
5 sanctions.

6 ATTY. BLUMENTHAL: Yes, your Honor. There are
7 really two things at issue with regard to the
8 sanction at issue, which is an adverse inference with
9 regard to what the text that were failed to be
10 produced and were destroyed would show. The
11 prejudice or materiality of them, and also the
12 intentionality with which they were destroyed.

13 I'll start with the prejudice, which the
14 defendants have said there is none. But just the
15 opposite. These texts are on an issue that is hotly
16 contested in this case and is highly significant to
17 the plaintiffs' damages case. And that is the
18 control that Free Speech Systems exercised over Dan
19 Biondi, and the timing of that control. And having
20 those text would provide the plaintiffs an ability
21 potentially to prove the timing of that control,
22 specifically that it extended through the time that
23 they were exchanged.

24 It also deprives the plaintiffs of the ability
25 to test the veracity of the accounts that were given
26 of those texts in the depositions. The defendants
27 have essentially said, we have their deposition

1 testimony. Good enough. But that's the whole
2 purpose of documentary evidence and exhibits at a
3 deposition. At least in part. That purpose is to
4 allow the person taking the deposition, or the party
5 taking the deposition, to test those statements. And
6 so the plaintiffs have been deprived of that.

7 They've also been deprived of quality evidence.
8 Of high-quality evidence. Documentary evidence on
9 this subject matter would be the equivalent of a star
10 witness and having just witnesses recollection
11 through deposition testimony or live testimony, is
12 far less high quality for the plaintiffs and for the
13 jury.

14 And moreover archingly these text are
15 fundamentally about Dan Bidondi's deposition
16 testimony. And the veracity of that testimony more
17 generally. And also whether and how it may have been
18 affected by Free Speech Systems and Rob Dew. And so
19 the plaintiffs have been deprived of documentary
20 evidence to test, first of all the veracity of Mr.
21 Biondi's deposition testimony more generally, but
22 also with regard to what they said in particular.

23 On the intentionality issue. The defendants
24 have said essentially that Mr. Dew did not intend
25 when he slammed his phone in his pickup trucks
26 tailgate, to destroy evidence for the purpose of
27 depriving the plaintiffs of it. But that's not the

1 test of intentionality recognized by our courts.
2 Beers, the Beers case specifically says that by
3 intentionality we do not mean that there must have
4 been intent to perpetrate a fraud by the party or his
5 agent. But merely that the evidence had been
6 disposed of intentionally and not merely destroyed
7 inadvertently.

8 And in this case, we think that the Court can
9 only come to the conclusion that under that
10 definition, and the definition that the courts have
11 generally observed, that these texts were destroyed
12 intentionally. First of all, Bidondi himself is a
13 potential agent of Free Speech Systems, depending on
14 how you interpret their testimony, and depending on
15 what the text show at the time. And he admits that
16 he destroyed them intentionally.

17 Additionally, given the realities of cell phones
18 in the moderate age, the failure to provide or
19 preserve these text over the time period that Free
20 Speech Systems knew that it needed to preserve and
21 provide them. Three years from the beginning of the
22 first discovery that demanded them, and nine months
23 from multiple specific demands for those texts in
24 particular.

25 THE COURT: Attorney Blumenthal, can you just -

26 ATTY. BLUMENTHAL: Yes.

27 THE COURT: - refresh my memory, please? So the

1 text messages were what dates?

2 ATTY. BLUMENTHAL: Let's see. The text messages
3 in particular were from July, I believe July 2021.
4 I'm just looking it up right now. In advance of Mr.
5 Bidondi's deposition. So Mr. Bidondi said it was
6 about the fourth of July.

7 THE COURT: That the text messages were
8 exchanged.

9 ATTY. BLUMENTHAL: Yes.

10 THE COURT: 2021. And when - so put aside Mr.
11 Bidondi. But what is Mr. Dew's relationship with
12 Free Speech Systems?

13 ATTY. BLUMENTHAL: At the time -

14 THE COURT: At the time the text messages were
15 exchanged.

16 ATTY. BLUMENTHAL: He was Alex Jones' right-hand
17 man. One of the most senior members of the
18 management team.

19 THE COURT: All right. So he's an employee of
20 Free Speech Systems.

21 ATTY. BLUMENTHAL: Yes, your Honor.

22 THE COURT: Okay. And at the time the text
23 messages were exchanged, was there - were there
24 discovery requests that were propounded that would
25 have required Free Speech Systems or Mr. Jones to
26 produce the text messages? Putting aside the
27 subpoena on Mr. Bidondi.

1 ATTY. BLUMENTHAL: Yes, your Honor.

2 THE COURT: And then just refresh my
3 recollection so I don't have to go through all my
4 notes here. When was the - when did Mr. Dew's cell
5 phone get damaged?

6 ATTY. BLUMENTHAL: In either late January or
7 early February 2022. He couldn't determine with more
8 specificity.

9 THE COURT: So that was the timeframe they were
10 created in July of 2021, and his phone was not
11 damaged until around six months later?

12 ATTY. BLUMENTHAL: Yes, your Honor.

13 THE COURT: Okay. Go ahead.

14 ATTY. BLUMENTHAL: So your Honor, as I was just
15 saying. Basically with the realities of the way cell
16 phones work and how people use cell phones these
17 days. If you fail to preserve or cause to be
18 preserved these sorts of texts, or data, over this
19 sort of length of time, it's almost inevitable that
20 something is going to happen to them. The way people
21 use their phones and replace them. And that's
22 exactly what happened in this case.

23 In addition, Dew was a senior member of the
24 management team. He should have known that he needed
25 to preserve these texts. He didn't do so. He's
26 admitted it. He should have taken measures, even
27 after he put them in his pickup trucks tailgate, and

1 then slammed the tailgate on them - or on the phone.
2 He should have and he should have known to go to some
3 measure to recover them. Some sort of technical
4 assistance. He failed to do that. And he's admitted
5 it in his deposition. And I just think it's useful
6 to think about this from a more broad context, about
7 what the evidence shows happened here. Most of the
8 cases that have decided that evidence was not
9 destroyed intentionally, deal with parties who do not
10 have notice that they need to preserve it. Or some
11 sort of external factor, like a cleaning service
12 picking up a soda can that's on a desk and throwing
13 it in the trash.

14 And what we have here is, an individual who knew
15 that he had to preserve these texts, and an entity
16 that knew that they had to preserve them. Failed to
17 do it over an extended, extended period of time. And
18 we have an admission from the individual himself,
19 that he took the phone, he placed it in the tailgate
20 of the truck, and then he slammed the tailgate of the
21 truck on it. And then failed to take any additional
22 measures besides attempting to turn it on, to try to
23 recover the data.

24 And so what the defense is really asking us to
25 do, is to look - or the Court to demand evidence of
26 what was in Mr. Dew's heart, with regard to these
27 texts. And that's exactly what courts have said here

1 in Connecticut, is not required.

2 THE COURT: All right. Attorney Pattis, it
3 looked to me when I looked at it the first time, and
4 it looks to me now. That it should have been
5 produced. It should have been preserved. And okay,
6 neither were done, and the phone gets destroyed.

7 ATTY. PATTIS: So addressing Attorney
8 Blumenthal's argument. There is no prejudice because
9 strictly speaking, Dan Bidondi's not a relevant
10 witness to this case. There is zero evidence that
11 Bidondi had any contact with any of the plaintiffs,
12 and to the degree that they'd keep - they'd seek to
13 assert that Infowars quote, unquote, harassed the
14 plaintiffs. Bidondi came to Connecticut and harassed
15 other people.

16 And if they're going to advance a 4-4 theory,
17 they've not yet given me a notice of that, so
18 strictly there can be no prejudice because Mr.
19 Bidondi is irrelevant. Whether he was under control,
20 Infowars control, when he went to visit third parties
21 and behaved like an ass. Is neither here nor there.

22 Mr. Blumenthal - Attorney Blumenthal, sorry, places
23 a very charitable cast on the evidence. He suggests
24 that Dew went to his truck, placed the phone in there
25 with the intention to destroy it.

26 I don't read the testimony that way. I read it
27 more as an accident. As to whether it should have

1 been preserved in July of 2021. I don't recall when
2 the first request for communications of this sort
3 occurred. I don't recall whether it pertained to
4 Bidondi. So I reject the contention that its
5 prejudicial to the case that they're putting on or -

6 THE COURT: Can we just back up for a second.
7 Attorney Pattis, my recollection is that at the
8 September deposition at the time Attorney Wolman was
9 appearing for the defendants.

10 ATTY. PATTIS: Um-hum.

11 THE COURT: There was a preservation request put
12 on the record then. So when I look at this, it
13 produced and should have been preserved. And then
14 this is what happens to evidence all the time when
15 people don't fully and fairly comply. The passage of
16 time, things happen. And so regardless of whether it
17 was intentional or not, it sure doesn't sound like
18 Mr. Dew, who was an employee of Free Speech Systems
19 produced it or preserved it. And that's sort of a
20 problem.

21 ATTY. PATTIS: It is sort of a problem. But I
22 don't think that it's - it's neither prejudicial -
23 it's just not prejudicial. And so to say that - to
24 draw this adverse - I don't think you can claim that
25 it was intentional spoliation. I'm not sure that
26 Connecticut recognizes negligence spoliation. So I'm
27 not sure that the plaintiff's are entitled to the

1 adverse inference that they seek. And so that's my
2 answer.

3 THE COURT: All right. Attorney Blumenthal, did
4 you want to respond briefly?

5 ATTY. BLUMENTHAL: Yes. Just two very brief
6 notes. Your Honor, one thing that I didn't mention
7 in my description of Mr. Dew, is that he on several
8 occasions served as Free Speech Systems corporate
9 representative in depositions, both here and
10 elsewhere. And so that I think is a relevant fact in
11 evaluating intentionality.

12 Additionally, contrary to Attorney Pattis'
13 argument, the default establishes that what Mr.
14 Bidondi did was under the control of Free Speech
15 Systems. So that relationship is important for the
16 plaintiffs to be able to explore through the highest
17 quality testimony, and as a result, the prejudice is
18 significant in addition to all the other reasons that
19 I've mentioned previously.

20 ATTY. PATTIS: Briefly, Judge?

21 THE COURT: Sure.

22 ATTY. PATTIS: We obviously disagree about what
23 the default means. And I'll address that later in
24 motions. The fact of the matter is, that there is
25 zero evidence that Bidondi had anything to do with
26 any of these plaintiffs. And I was startled to see
27 the plaintiffs - I guess the plaintiffs are serious

1 about offering him as a witness. I may seek to
2 address that by way of a motion, because I don't see
3 any nexus between Bidondi and any of the people
4 claiming money damages here.

5 THE COURT: Attorney Blumenthal, again, refresh
6 my recollection. What are the allegations in the
7 complaint about Bidondi?

8 ATTY. BLUMENTHAL: I'm not quoting, I'm
9 paraphrasing, your Honor. But the allegations were
10 that he was an Infowars reporter at relevant times
11 under their control. And that he harassed
12 individuals in and around Newtown, in a company - in
13 the company if Wolfgang Halbig. And that the
14 plaintiffs were aware of him.

15 THE COURT: All right. So I'll take this under
16 advisement, and hopefully get you a ruling later this
17 afternoon or tomorrow.

18 ATTY. STERLING: If I may? Attorney Sterling
19 for the record. I do want to flag - I know the Court
20 had an approach that it wanted to take with regard to
21 the motions.

22 THE COURT: I do.

23 ATTY. STERLING: And I don't mean to disorder
24 that approach. But I did want to raise that I think
25 a lot of what we're doing dances around the central
26 issue -

27 THE COURT: I understand that.

1 ATTY. STERLING: Okay. Thank you, your Honor.

2 THE COURT: But I have to follow the way it's
3 laid out on this desk, or I'm going to get lost with
4 all these orders I have to do. But I do understand
5 that.

6 ATTY. STERLING: Of course, your Honor. I just
7 don't want to have any of our arguments be understood
8 as -

9 ATTY. PATTIS: No motion is an island. I think
10 she's trying to say.

11 THE COURT: Yes.

12 ATTY. STERLING: Yes, exactly. Thank you.

13 THE COURT: I think we all know that. All
14 right.

15 ATTY. STERLING: Okay. Thank you, your Honor.

16 THE COURT: So I'm going to turn to defendants'
17 motion on the white supremacy issue. I have it entry
18 number 866. I have the plaintiff's objection at 890.
19 And I have no reply being filed. So if those entry
20 numbers are correct -

21 ATTY. PATTIS: They are in the defendants' view,
22 Judge.

23 THE COURT: I beg your pardon?

24 ATTY. PATTIS: They are in the defendants' view,
25 Judge. Those entries are correct. Yes.

26 THE COURT: Okay. So whenever you're ready.

27 ATTY. PATTIS: This pertains to the proposed

1 testimony of a witness expert from the Southern
2 Poverty Law Center named Dr. Beirich. And my
3 understanding is, she's being offered to provide
4 jurors with context of Mr. Jones in the American
5 political talking head landscape. And that he will
6 be situated as a vocal and visible right-wing figure
7 on the airways.

8 All of that's fine and I think is appropriate
9 and will assist the jury. Our argument is applying
10 4-3. Having him characterized as a white supremacist
11 is more pre - is unduly prejudicial. Not one of the
12 plaintiffs in this case is anything other than
13 Caucasian, as near as I can tell. Race isn't an
14 issue in this case. It's become the third rail of
15 American politics.

16 And so we seek to eliminate issues that would
17 have the tendency to divert the jury from its task at
18 hand. And that is, evaluating the extent to which,
19 if at all anything Jones said actually affected these
20 plaintiffs. Or whether their role as visible
21 spokesman for gun safety, as they perceived it,
22 brought them attention they didn't want.

23 THE COURT: So I understood, Attorney Sterling,
24 I thought you basically agreed on what such evidence
25 could be used for. And I thought as I understood it,
26 Attorney Sterling, you would only be offering such
27 evidence if it got to that, with respect to the

1 composition of Mr. Jones' audience, and how the
2 audience responded to the topics and broadcasts.

3 ATTY. BLUMENTHAL: Your Honor, this is -

4 THE COURT: Oh.

5 ATTY. BLUMENTHAL: - Attorney Blumenthal.

6 Apologizes for the confusion about taking this one.

7 THE COURT: Sorry, you did tell me that.

8 ATTY. BLUMENTHAL: But I think your Honor has
9 broadly characterized the testimony correctly. The
10 reason why the testimony is relevant and vital, has
11 nothing to do with Mr. Jones' character. In fact,
12 Dr. Beirich at her deposition explicitly declined to
13 characterize his character in this context. And said
14 she would not be testifying as to his own beliefs.

15 Rather, it's relevant to describe his audience,
16 specifically the context around it, and Jones' place
17 within it, and his ability to communicate with it.
18 It - she'll be able to testify as to his prominence
19 in these circles. His reach within these circles.
20 His ability to grow these movements. The trust that
21 these segments of his audience have, and his message
22 and his statements. And thus their resistivity to
23 them. And it indicates who would believe those
24 statements and how they would receive them. It also
25 talks about - it also is evidence relevant to the
26 ideology, the activities, the disposition of elements
27 of his audience. And the centrality of these

1 specific messages. The hoax messages and narratives
2 about mass tragedy events, specifically mass
3 shootings. The centrality of those sorts of
4 narratives to this element of his audience's world
5 view, and their disposition to believe those
6 narratives, especially coming from him. And also
7 their disposition to act as a result of those
8 narratives.

9 ATTY. PATTIS: Judge, I think that the - I'm
10 sorry, I cut you off Attorney Blumenthal.

11 ATTY. BLUMENTHAL: And I've just one more thing.
12 Sorry, your Honor, I'm -

13 THE COURT: That's all right.

14 ATTY. BLUMENTHAL: - not going at length. But
15 the last thing I would say is, it's relevant to what
16 exact message they were receiving from his words.
17 Dr. Beirich will be able to essentially describe how
18 this element of Jones' audience will receive those
19 messages, and what they will believe him to be saying
20 when he uses the words that he does in the context
21 that he does. And the claims at issue, intentional
22 infliction of emotional distress, defamation, and the
23 like. Are ones that really demand evaluation in
24 context. This is important context for evaluating
25 the plaintiffs' damages. Dr. Beirich can provide
26 really helpful testimony to the jury on how they
27 should deal with that.

1 And one more. Not to poke at Mr. Pattis at all.
2 But - or Attorney Pattis. Dr. Beirich is formerly of
3 the Southern Poverty Law Center. She does not work
4 there anymore.

5 ATTY. PATTIS: Well, we may explore why she left
6 when we get - Judge, if you listen carefully to the
7 proffer made by Attorney Blumenthal, I'd be stunned
8 if you let 90 percent of that in. Much though that
9 it may be appealing rhetoric in a discussion over
10 beers about what ails the American public. It's
11 entirely speculative. She's going to be able to say
12 how ill-defined groups that she can identify by
13 what - by some means would react to this and be
14 triggered by it, and what they'd do with it.

15 This is a case where the Sandy Hook parents have
16 chosen to attack Mr. Jones. It's their
17 responsibility to prove if they can, that he
18 proximately caused them damages. I think permitting
19 her to testify in this speculative manner would
20 undermine his rights to a fair trial. And I stand on
21 the 4-3. I mean I think the plaintiffs are entitled
22 to try their theory of stochastic terrorism. Let's
23 see how far it goes.

24 But the basis that the motion was really a
25 narrow 4-3, you may recall Judge, at one point we
26 were going to submit a second motion on Dr. Beirich.
27 I had somebody in the office fall ill. And so we

1 never did the Daubert Porter challenge, that much of
2 what I'm arguing about now sounds like. So I want to
3 just focus on the 4-3. As to the white supremacist
4 stuff. I think that's a third rail in American
5 politics and is unduly prejudicial.

6 THE COURT: All right. So I do agree with the
7 movant, that that kind of evidence can't be used to
8 attack Mr. Jones' character, to prove that he was
9 acting with any racial animus. Or to characterize
10 him as a white supremacist or such. But I do think
11 the evidence can be offered with respect to the - if
12 there's a foundation for it. The composition of his
13 audience and how the audience responded to the
14 narratives. So, I'm going to deny the motion.
15 Although I'm sure they'll be other reasons to object.
16 Okay.

17 All right. Plaintiffs motion for order number
18 924. This is on the Google analytics. I have the
19 defendant's omnibus objection at 941. And I have the
20 plaintiffs reply at 949. Again, I don't know if any
21 of these numbers have changed, but if so, tell me
22 now.

23 ATTY. STERLING: Your Honor, no they have not
24 changed. I'm being able to - I can now anticipate
25 some of where the Court is going. So I have this one
26 ready. So this is the motion to compel production of
27 a Google analytics spreadsheet that was reviewed by

1 Free Speech Systems corporate designee Brittany Paz,
2 in preparation for her deposition. Which was not
3 brought to her deposition. And then when it was
4 requested that it be produced because she was
5 testifying based on it, it was not produced. And
6 again, the defendants are indicating that they're not
7 sure - they can't produce it, and it's possible
8 that - well, that they can't produce it.

9 Those representations again, are not sworn.
10 This - I would say your Honor, this is a little bit
11 different because here we're dealing with a corporate
12 representative's testimony. It binds the
13 corporation. So the fact that the corporation is
14 unable to produce the basis for the designee's
15 testimony, should bear some more significance.

16 The Court had inquired before, this is like the
17 PQPR management agreement motion, in which we had
18 moved to compel. The objection indicated that the
19 document can't be produced. We've noted in reply,
20 that that representation is made just simply by
21 counsel in the pleading, but not by affidavit. And
22 we have requested sanctions in the reply brief. So
23 I'll stop there.

24 THE COURT: So this is the one, Attorney Pattis,
25 were Blake Roddy said it doesn't exist?

26 ATTY. PATTIS: Yes.

27 THE COURT: Is that -

1 ATTY. PATTIS: Upon being -

2 THE COURT: And just -

3 ATTY. PATTIS: I cut you off. I'm sorry.

4 THE COURT: Just refresh my recollection as to
5 who Mr. Roddy is again. So I don't have to -

6 ATTY. PATTIS: He works in the - well, in the
7 distribution network. So when people make orders
8 from the online stores and enterprise - he sort of a
9 gate keeper who would oversee that function. I don't
10 know if there are additional questions in that
11 regard, but that -

12 THE COURT: No, I just -

13 ATTY. PATTIS: - is his function there. And so
14 when this issue first arose, there were several
15 items. I contacted the corporate rep., she told me
16 that Blake had shown her this. I contacted Mr. Roddy
17 on several occasions. I will get you an affidavit or
18 this may be something where you want to hear from the
19 two of them. Because it's not at all clear to me
20 that Attorney Paz was correct in what she said based
21 on what I know of the Google analytics there.

22 But I will concede that she said what she said.
23 The problem I have is, that Roddy doesn't know what
24 she's talking about. And this is a confounding set
25 of factors that - that this is a confounding set of
26 factors.

27 THE COURT: So do I hear you saying you would

1 like an opportunity to provide a counter affidavit
2 again?

3 ATTY. PATTIS: Yes.

4 THE COURT: Are we looking at an evidentiary
5 hearing? What are we doing?

6 ATTY. PATTIS: Well I agree with Attorney
7 Sterling, that the stakes are higher here, in that
8 Ms. Paz or Attorney Paz was the corporate rep. If I
9 could produce Mr. Roddy for a hearing by way of
10 video, I don't know that I can get him up here on
11 short notice from Texas. But I would like you to
12 hear from him and make your own evaluation as to his
13 credibility. It is entirely possible to me that
14 Attorney Paz made a mistake. The Court may recall,
15 there - the google - the topic of Google analytics
16 has been quite controversial in this case. The
17 company continues to maintain it doesn't use them.

18 The Court's already made findings in various
19 other sanctions motions about that, that we're not
20 asking you to reconsider at this point. We obviously
21 disagree with them. But I'd like you to hear from
22 Mr. Roddy.

23 THE COURT: So are you also anticipating filing
24 an affidavit from the Free Speech System, I forget
25 his - the -

26 ATTY. PATTIS: Mr. Schwartz?

27 THE COURT: Yes. Because the other one you were

1 saying that you would - that Mr. Schwartz would
2 search the records since he is -

3 ATTY. PATTIS: I can ask him to do so. That
4 hadn't occurred to me. That's helpful. I mean
5 presumably -

6 THE COURT: Do you want me to just consistent
7 because you're - Free Speech Systems is in
8 bankruptcy, right? So -

9 ATTY. PATTIS: No, that's true. But I mean, one
10 of the agreements - I mean lifting stay, I now have
11 access to everybody. But Schwartz would be starting
12 at the top. So I would like the opportunity to
13 submit a brief affidavit for Mr. Schwartz and Mr.
14 Roddy.

15 THE COURT: And I would like to do that. The
16 only problem is, this - how do I say this? It would
17 have been helpful to have the evidence before today.

18 ATTY. PATTIS: It would -

19 THE COURT: Because all I have -

20 ATTY. PATTIS: I think I did make a pass and an
21 objection on timeliness grounds. I mean, we're on
22 the eve of trial. This is ample fodder for cross-
23 examination. I'm not sure that this is something we
24 need to or should be litigating now. And it seems to
25 me that on this record, they'd have ample grounds to
26 impeach, and they could ask the jury to do something,
27 rather than have the Court do it. So, I would ask

1 you to consider whether this is timely perfected.

2 THE COURT: And I will just state for the record
3 I will - I'm not in agreement with that position,
4 Attorney Pattis, because of all the activity that has
5 gone on with Free Speech Systems. It makes it sort of
6 impossible to get these kinds of documents when the
7 cases are in bankruptcy and removed. I mean, like
8 you said, you might be in a better position now. But
9 in any event -

10 ATTY. PATTIS: I might be.

11 THE COURT: - I will enter the same order on
12 this. The same timeframe.

13 ATTY. PATTIS: Yes, Judge.

14 THE COURT: And we'll see what - we'll see - so
15 now, once you have the affidavit, what do you want me
16 to do?

17 ATTY. PATTIS: I will obviously provide it to
18 opposing counsel, and maybe we should meet and confer
19 about whether we think anything additional is
20 necessary. I suspect we will. But I think I'd like
21 them to see it. I - as your officer, Judge - I've
22 not discussed this issue with Schwartz. I've
23 discussed it with Roddy. So I'm not as confident in
24 making representations about what I'll be able to
25 produce.

26 ATTY. STERLING: Your Honor, Attorney Sterling.
27 I am trying to think about how we can do this

1 efficiently, because part of my concern is that here
2 we are, our side is preparing for trial, and we are -
3 this is going to impact our trial preparation as
4 well. And I just - it seems to me that under the
5 circumstances it is not we who should be prejudiced
6 here.

7 So I understand that the Court is going to give
8 the defendants an opportunity to submit an affidavit.
9 I'm just struggling with how we can address that in
10 time to know where we stand by opening arguments on
11 Tuesday.

12 THE COURT: I agree. It's going to be very
13 tricky. And I don't see how I assess credibility on
14 affidavits either. What happens if I - I don't know.

15 ATTY. PATTIS: It doesn't strike me as a central
16 part of either an opening statement or a rebuttal.
17 And so I think there may be an unrealistic sense of
18 urgency about this. If it were that urgent,
19 presumably it wouldn't have waited all this time to
20 be perfected and argued. And so I hear what the
21 plaintiffs are saying. But I'm less persuaded that
22 the case is - that the opening of the case is
23 affected by disposition of this.

24 THE COURT: I just think it diverts all our
25 resources to have -

26 ATTY. PATTIS: Well that it does.

27 THE COURT: - to have evidentiary hearings and -

1 ATTY. PATTIS: Well, Judge, when this issue
2 arose, I was engaged in collateral proceedings of a
3 pressing personal matter, over which I had no
4 control.

5 THE COURT: Well, it looks like some of these
6 motions were filed back in mid-August, so I don't
7 know how much - and then we also had the bankruptcy
8 and the removal. So, it's challenging.

9 ATTY. PATTIS: And where I was unable - where I
10 was unable to have contact with the stayed -
11 representatives of the stayed defendant as a matter
12 of federal law.

13 THE COURT: It's a challenge.

14 ATTY. PATTIS: One of the reasons that the -
15 that Free Speech agreed to lift the stay, was to
16 provide me with access to people that I wouldn't
17 otherwise have access to.

18 THE COURT: All right. I have plaintiffs'
19 motion in limine. This is on the extent of the Sandy
20 Hook coverage. I have, I think it's entry number
21 932, but I'm not sure. Then I have the defendant's
22 omnibus objection at 941. And I have the plaintiff's
23 reply at 952.

24 ATTY. STERLING: Your Honor, I apologize. I
25 missed that. What was the opening docket number?

26 THE COURT: That's a good question.

27 THE COURT: I think it's 932. Let me look.

1 THE CLERK: Your Honor, it's 931.

2 THE COURT: 931. 931. This is regarding the
3 percentage or amount of Sandy Hook coverage.

4 ATTY. STERLING: Yes.

5 THE COURT: Then I have the omnibus objection at
6 941. And I have the plaintiffs reply at 952.

7 ATTY. STERLING: Okay, your Honor.

8 THE COURT: Are those -

9 ATTY. STERLING: Let's -

10 THE COURT: Are those correct?

11 ATTY. STERLING: They are. 931. 941. 952.

12 THE COURT: Perfect. All right. Whenever
13 you're ready.

14 ATTY. STERLING: Okay. Yeah. So your Honor,
15 this is the motion to preclude evidence and argument
16 regarding maximum total purported coverage. The
17 evidence on this from a whole range of witnesses, is
18 that - and actually Attorney Pattis just made the
19 point himself in connection with the request for
20 admission. Is that it's their position that they
21 don't know how many videos they created, or in
22 connection with the request for admission, all the
23 places that they were broadcast.

24 So - and this is testimony from corporate
25 designee's, Rob Dew, who said most of our video
26 library got wiped out. I don't even think God knows
27 all the videos because they're gone. They don't

1 exist anymore. Alex Jones. I don't know the number
2 of total videos about Sandy Hook. Many videos have
3 been reedited by others countless times. So there's
4 no way for me to know. Alex Jones again. A lot of
5 the live show was only archived on YouTube, and then
6 that was taken down. There were over 30,000 videos',
7 we don't save those videos, most of them.

8 The point being, your Honor. That we have
9 identified some of the Sandy Hook coverage. But
10 nobody knows the full extent of the Sandy Hook
11 coverage by Alex Jones. And so an argument that the
12 full extent is known, and then can be used to support
13 a sort of a drop in the bucket argument that the
14 defendants want to make. The defendants would like
15 to say, that this is only a small percentage of their
16 coverage. Of their - sorry, of their total all
17 broadcasts.

18 And there's a number of problems with that
19 argument. But the problem that we're flagging here,
20 is that there just isn't a basis for them to say what
21 exactly their claim is as to the - as to the amount
22 of coverage. They can't say what the maximum amount
23 was. They've given us that response over and over
24 again. So that's the motion, your Honor. We're
25 asking simply for a preclusion of that particular
26 argument.

27 ATTY. PATTIS: Judge, this issue came up in

1 Texas. And I think the Court may have granted a
2 similar motion at closing argument counsel for Mr.
3 Jones, confined himself to what was in the evidence.
4 And said that within the evidence, given the number
5 of hours they were on the line, that what the jury
6 was shown represented something like one tenth of one
7 percent or one - one and half tenths of one percent
8 of their total coverage. This is a problem that the
9 plaintiffs in some respects created for themselves.

10 The Sandy Hook shootings occurred in 2012. They
11 were broadcast then. They were broadcast in 2103.
12 They were broadcast in '14, '15, '16, '17, '18. Mr.
13 Jones was de-platformed in '18, at or about the time
14 this suit was brought. They did not maintain a set
15 of hard drives or a server with a history of their
16 stuff -

17 THE COURT: Attorney Pattis, I'm sorry. I just
18 want to get to understand something. Are you taking
19 the position that there's a basis for an argument on
20 the defense, that there is a percentage or an amount
21 of the total amount of coverage? I mean, are you
22 actually saying, putting aside fault of any party.
23 Are you saying that there will be a basis for that
24 argument?

25 ATTY. PATTIS: There will be a basis for what
26 was admitted into evidence at trial. The testimony
27 will be that they're on - they're on the air for

1 roughly 10,000 hours over this period. And the jury
2 will have been shown 20 hours, 15 hours.

3 THE COURT: All right. So what they're shown
4 versus how many hours on the air is one thing. But
5 what existed versus how long they were on the air, is
6 another thing.

7 ATTY. PATTIS: I don't think either side should
8 be permitted to speculate about what existed. They
9 can't say that there are hours, and hours, and hours
10 that were destroyed, in part because they waited six
11 years to bring the action. And no one took a step to
12 preserve it at that point.

13 So I think it's a live issue for both sides. I
14 think what we've - how we comment on the evidence
15 that is offered. You will hear testimony that - from
16 Mr. Jones, that this was not something that he
17 covered often. That he covered it sporadically. And
18 then you'll hear testimony, presumably, from him
19 about the wide range of topics that he covered.

20 He doesn't know how often it was done. His
21 stuff was published, or how often it was republished
22 by others. I mean, for example, in the Texas trial,
23 there's a small cottage industry of bloggers.
24 There's something called Knowledge First or Knowledge
25 Fight. These people apparently live by loving to
26 hate Alex Jones. And they pounce on every piece of
27 video they can find. One of them even attended as a

1 paralegal, a deposition with Texas counsel to get
2 more access to Jones. So we don't know what's been
3 republished by whom. But I think there will be a
4 certain number of videos offered. I expect to argue
5 that the plaintiffs have spared no time or effort to
6 develop their case. And this is the most damaging
7 case they can find. All of it.

8 And that represents a minuscule portion of the
9 total programming, in that if there were more, the
10 jury would have been shown more. And it wasn't until
11 2018, for reasons of their own, which we'll explore
12 at trial. That the plaintiffs brought this suit. If
13 it hurt in '13, where was the lawsuit? If it hurt in
14 '14, where was the lawsuit? If it hurt in '15. And
15 some of these plaintiffs helped participate in the
16 drive to de-platform Mr. Jones. And it was the
17 de-platforming that deprived them of the archive that
18 they used to rely on with Google.

19 ATTY. STERLING: Your Honor if we can come back
20 to the issue in the motion. They just can't argue
21 that there is a minimum number - excuse me, a maximum
22 number here of videos. And one of the reasons that
23 they can't argue that is because the evidence is
24 going to be, that not only were these videos
25 broadcast on Infowars.com, and PrisonPlanet.com, and
26 Newswars.com. But they were broadcast on radio
27 stations. There's a network of 150 radio stations.

1 And then they were republished again by Infowars
2 employees on YouTube, and Twitter, and Facebook. So
3 the idea that they can argue that there is a maximum
4 total number, and that they know what it is. I mean,
5 certainly there's a minimum. We can establish that
6 there is a minimum. But we cannot establish the
7 maximum. So the argument that they want to make,
8 this sort of percentage-type argument, there is not
9 going to be a basis for it.

10 ATTY. PATTIS: Judge, I haven't announced an
11 intention to make a percentage-type argument. And
12 I'll certainly object if the plaintiffs try to say it
13 was everywhere always. That would be every bit as
14 speculative. My suggestion, Judge, would be to defer
15 ruling on this. I certainly understand the
16 plaintiffs' position, and let's see what the evidence
17 develops. I think this is a time of trial motion. I
18 certainly don't intend to make a representation in my
19 opening statement that X percentage of their content
20 and no more was devoted to Sandy Hook. I do not
21 intend to do that.

22 THE COURT: All right. So I am going to grant
23 the motion. No evidence or argument regarding the
24 total amount of Sandy Hook coverage or percentage, or
25 proportion of Sandy Hook coverage. Doesn't mean -

26 ATTY. PATTIS: By either side?

27 THE COURT: That's what I said. That's the

1 ruling.

2 ATTY. PATTIS: I didn't hear it that way.

3 THE COURT: No evidence or - you'll get it in
4 writing. No evidence or argument regarding the total
5 amount of Sandy Hook coverage, or the percentage or
6 proportion of Sandy Hook coverage. So certainly
7 whatever evidence is put in, everyone can comment on.
8 But no percentage or proportion can be argued.

9 ATTY. STERLING: Your Honor?

10 THE COURT: Um-hum.

11 ATTY. STERLING: May - so, I think I do need to
12 make a clarification here. So we have an expert who
13 is disclosed to testify regarding the spread, the
14 reach of this content.

15 THE COURT: I understand that.

16 ATTY. STERLING: Okay. And so I just want to
17 make sure that this ruling isn't foreclosing that
18 testimony -

19 THE COURT: Absolutely not. It's ruling on the
20 issue that was raised in the motion. So -

21 ATTY. STERLING: Okay.

22 THE COURT: No percentage - no argument that
23 it's a minuscule, for example, a minuscule portion of
24 what he covered over the 10,000 hours and the like.
25 So whatever evidence ends up coming in otherwise, of
26 course is - can be commented on during closing
27 argument. But -

1 ATTY. PATTIS: Judge, he will testify that it
2 was a minuscule portion and his recollection. And I
3 think that's fair testimony.

4 THE COURT: The rulings the ruling, Attorney
5 Pattis, so...

6 ATTY. PATTIS: Well, we'll get to his testimony
7 when we get to it.

8 THE COURT: Attorney Pattis, listen to me
9 carefully. The ruling is the ruling. If someone,
10 and it's the law of the case, and I know you disagree
11 with it. And that's fine. We don't want a situation
12 where I have entered these orders, and someone tries
13 to circumvent the orders. I don't think that would
14 be appropriate.

15 So I think you heard you suggesting that he is
16 going to testify along the lines of what I just said
17 was not permissible. I cannot accept that. So, I
18 assume I misunderstood?

19 ATTY. PATTIS: No, you didn't misunderstand.
20 I'll ask to be heard outside the presence of the jury
21 when he's on the witness stand. I think he's
22 entitled to testify from his recollection.

23 THE COURT: So we have a record. We're on the
24 record now. I'm entering the order in writing. I
25 will personally, if I need to, personally if you're
26 suggesting to me that he is not going to abide by
27 this order, I can personally canvas him prior to

1 taking the stand. Because I don't want any
2 misunderstandings about -

3 ATTY. PATTIS: You should do so, Judge.

4 THE COURT: - what this ruling is.

5 ATTY. PATTIS: You should do so. And I'd like
6 you to hear from him on the stand, so that I have the
7 record that I need for appeal.

8 THE COURT: I'm not going to make an offer of
9 proof through him. I'm simply going to make sure
10 that he understands what the Court order is, and that
11 he is not going to -

12 ATTY. PATTIS: I think that would be
13 appropriate.

14 THE COURT: Beg your pardon?

15 ATTY. PATTIS: That would be an appropriate step
16 for the Court to take.

17 THE COURT: An appropriate or inappropriate?

18 ATTY. PATTIS: An appropriate. That would be
19 the right thing for the Court to do.

20 THE COURT: All right. Because I assume that we
21 all have our roles, and we all have clients, and we
22 all have our job to do. And I also know that you
23 will do your job and explain to your client these key
24 rulings. But I am happy to do it in addition to, but
25 I will tell you this Attorney Pattis. I'm not going
26 to have a contempt situation in the courtroom, where
27 an order is blatantly violated. So I assume -

1 ATTY. PATTIS: I don't intend to violate your
2 orders.

3 THE COURT: No, I was referring to your client.
4 But I think you'll do what's necessary, and
5 whatever's necessary. But I'm not going to have -
6 this is a simple order. It literally couldn't be
7 simpler. It's probably 20 words, and I am not going
8 to have a situation where we now have to go off
9 course from the middle of the trial, and I have to
10 deal with a contempt of court situation with your
11 client, where he's blatantly disregarding an order.
12 So -

13 ATTY. PATTIS: Judge, I hear you. I also
14 watched portions of the Texas trial, and there were
15 moments that were difficult for all involved. So I
16 think it would be the right thing. I don't want you
17 to misunderstand my word. For the Court to review
18 that topic with Mr. Jones prior to his testimony. I
19 would encourage you to do so.

20 THE COURT: Okay. All right. We can take up
21 one more, or would you like to take the 15-minute
22 recess now? Does it matter to anyone?

23 ATTY. PATTIS: It doesn't matter to me, Judge.

24 THE COURT: Does anyone need a - Attorney
25 Sterling, go ahead.

26 ATTY. STERLING: I'm fine, your Honor. Why
27 don't we do one more?

1 THE COURT: Okay. Why don't we do plaintiffs
2 872. This is on the Soto versus Bushmaster case.
3 Defendant's objection at 888. And the plaintiffs
4 reply at 905. Just tell me if I got it right first.

5 ATTY. STERLING: One second, your Honor. For
6 some reason I can't find it -

7 ATTY. PATTIS: I don't have my docket sheet in
8 front of me, Judge, so I can't -

9 ATTY. STERLING: That is -

10 THE COURT: I'm sure Attorney Sterling will
11 correct it if it's wrong.

12 ATTY. STERLING: Well, that is one of the ones
13 with corrected filings.

14 THE COURT: Okay, good. That's what I want to
15 make sure I rule on the right thing.

16 ATTY. STERLING: Yup. And unfortunately though
17 Judge, my wonderful organizational system is not
18 suppling it to me.

19 THE COURT: All right. I can find it. Just
20 give me one moment.

21 THE CLERK: Your Honor, I believe they're the
22 last two filings. 961 says corrected motion in
23 limine precluding questioning evidence or argument on
24 Soto. And 962 is a corrected reply.

25 THE COURT: That's it. Whenever you're ready.

26 ATTY. STERLING: Just a housekeeping matter.
27 With regard to the original motion in limine and the

1 original reply, would it - is it - we can withdraw
2 those in addition to filing corrections. I take it
3 the Court is just not going to review 872 -

4 THE COURT: Well, I had originally reviewed the
5 original ones, but I -

6 ATTY. STERLING: Uh-huh.

7 THE COURT: - then reviewed the new ones, and -

8 ATTY. STERLING: Okay.

9 THE COURT: My only concern, I didn't know if
10 Attorney Pattis had reviewed them because -

11 ATTY. PATTIS: I'm prepared to argue them,
12 Judge, based on my discussion with Attorney Sterling.

13 THE COURT: Right. Well that's why I checked
14 earlier, because there were a lot of filings today,
15 and honestly, I had to do a sort of a side by side to
16 see what was changed. It wasn't that easy. And I
17 just wanted to make sure Attorney Pattis was good to
18 go. All right -

19 ATTY. PATTIS: Despite the difficulties in this
20 case, Judge, dealing with Attorney Sterling has been
21 nothing but delightful.

22 THE COURT: All right. Whenever you're ready,
23 counsel.

24 ATTY. STERLING: All right. Your Honor, so
25 this - especially with the corrections we made this
26 morning, this is just an extremely straight forward
27 issue. What we did is moved in limine to preclude

1 evidence questioning our argument regarding Soto
2 versus Bushmaster, which is a case in which some of
3 the plaintiffs in this case were involved as
4 representatives for the estates and plaintiff Bill
5 Sherlach was involved as a result of a loss of
6 consortium claim.

7 There is no reason, your Honor, to get into Soto
8 versus Bushmaster at all anymore. And this does -
9 this is one of the motions that is directly
10 implicated by the law of default.

11 THE COURT: All right. So I just want to back
12 up for a minute. When I originally ruled, I think in
13 the defendants' favor, on the issue of the inquiry,
14 at the depositions and on this issue. That was when
15 we still had a full trial as to Genesis
16 Communications, who's no longer a party. Is that
17 correct? I just want to make sure that -

18 ATTY. STERLING: Yes. Yes, your Honor.

19 THE COURT: All right. So at that point they
20 were a party. It was a full trial. It wasn't a
21 hearing in damages. And I sort of looked at it as
22 what's likely to lead to admissible evidence in that
23 light. So, go ahead.

24 ATTY. STERLING: So your Honor, and that's
25 exactly the point. Is that we have the default
26 having entered, there are a number of consequences
27 that flow from that. Liability is established in

1 favor of the plaintiffs, and nobody disputes that.
2 Liability includes both fault and causation.

3 So that is done. Then the allegations of the
4 complaint are also established in favor of the
5 plaintiffs. It's tantamount to an admission. And
6 there is a disagreement between the parties about the
7 difference between material allegations and
8 allegations. We've cited the Smith versus Schneider
9 case, which I think is going to be the leading
10 Connecticut Supreme Court case to guide the Court on
11 these issues.

12 And I can get into that. I didn't realize that
13 we were going here, so if the Court decides that a
14 break is necessary, you know - just please let me
15 know.

16 THE COURT: I think it's almost 3:30. So I
17 think we should try to break it up now.

18 ATTY. STERLING: Yup.

19 THE COURT: So we'll take a 15-minute recess.

20 ATTY. STERLING: Okay. Thank you, your Honor.

21 (Recess. Resumed.)

22 THE COURT: We are back on the record. Attorney
23 Sterling had the floor. And I think she was starting
24 to address Smith versus Schneider.

25 ATTY. STERLING: Yes, your Honor, I was.

26 And before I do that. This motion, I think it's
27 incredibly straight forward. I think it's also

1 really, really important. It's important for a
2 couple different reasons. One is there is an exhibit
3 on the defendant's exhibit list of a video titled
4 Will Bushmaster lawsuit reveal Sandy Hook hoax. I
5 have not reviewed that video. But it - clearly this
6 is an area that they want to get into. Mr. Jones has
7 talked repeatedly about the 73-million-dollar
8 settlement in Soto versus Bushmaster. We expect this
9 is an area he's going to want to get into.

10 So, I just want the Court to be aware of what we
11 expect to be Mr. Jones interest in bringing this into
12 the case, and why it is so important not to. So let
13 me turn back to default law.

14 I was addressing Smith versus Schneider, which
15 is a 2004 Connecticut Supreme Court case. That case
16 is very helpful on the question of what does a
17 default mean in the context of no notice of defenses
18 being filed. Any contested evidentiary hearing in
19 damages. In that case, there was a defendant who was
20 no longer a party. So a non-party defendant who was
21 alleged to be a co-conspirator with two party
22 defendants. Those two-party defendants were
23 defaulted. And the Court considered a number of
24 challenges by them to the damage's awards in favor of
25 the plaintiff.

26 The one that I think is most - I mean there are
27 a number of helpful directions from the Court, but

1 one of the things that the defendants did was, they
2 challenged the award of CUTPA punitive's to the
3 remaining party's defendant. And in examining that
4 challenge, what the Supreme Court did is, it looked
5 to the allegations of the plaintiff's complaint. And
6 it saw that the complaint alleged a breach of
7 fiduciary duty by the non-party defendant, and
8 conspiracy by the non-party defendant, with the
9 remaining defendants.

10 Based on those allegations, it affirmed the
11 trial courts award of CUTPA punitive damages. And
12 the reason I raise all that, your Honor, is because
13 that directs the Court about the scope of what the
14 complaint establishes. So the complaint here, we
15 know it establishes proximate cause. That's really
16 not in dispute at all. And the defendant's have
17 conceded that that is not in dispute. And I can cite
18 to there is a docket number 892 at page 2.
19 Defendants agree that they might not - may not
20 challenge the threshold proposition that they have
21 caused damages to the plaintiffs.

22 So it's undisputed. Proximate cause is decided.
23 And other allegations of the plaintiff's complaint
24 are also effectively admitted. That is what Smith
25 versus Schneider is teaching. Is that allegations
26 like conspiracy and intent, are already established.
27 All that remains an issue, and again, this is black

1 letter default law is the amount of damages.

2 So the question is not whether the plaintiffs
3 are damaged, it is how much are they damaged? What
4 is the impact on them in terms of their reputation
5 and wellbeing? It's not whether the contacted issue
6 is reprehensible, it is how reprehensible was it.
7 And that's the frame for deciding whether evidence
8 about something like Soto versus Bushmaster could
9 possibly be admissible. The Court's ruling had
10 initially recognized that Soto could be a - I think
11 the Court had allowed discovery questioning about
12 Soto, in terms of would it have been a source of
13 harassment or were there other sources of harassment
14 for these plaintiffs.

15 And that ruling was appropriate at the time, but
16 it cannot guide the admissibility of this evidence.
17 Now, because now we're in a full default posture.
18 And as the Court correctly pointed out, that ruling
19 was made when there was an un-defaulted defendant.
20 So I'll stop there, your Honor. I think - well, let
21 me stop there.

22 THE COURT: Attorney Pattis.

23 ATTY. PATTIS: Well the Supreme Court had made
24 it clear in such cases as Mahoney versus Batura at
25 110 Connecticut 184, 196. That what - there must be
26 a causal connection in whole or in part between the
27 act of negligence and the injury. Plaintiff is

1 ordinarily entitled, the Court goes on to say, to at
2 least nominal damages following an entry of default.
3 But it does not follow that the plaintiff is entitled
4 to judgment to the full amount of relief claimed. It
5 still has to show how much of the judgment prayed for
6 he is entitled to.

7 And the significant thing, Judge, is an
8 Appellate Court decision. I believe it's
9 Richie versus Main Street Stafford. The Appellate
10 Court went on to say, we conduct a plenary review of
11 the pleadings to determine whether they are
12 sufficient to establish a cause of action upon
13 default. And we will have -

14 THE COURT: Attorney Pattis, the Richie versus
15 Main Street, that was the Appellate Court. Didn't
16 that say that the default establishes the liability
17 for the distress, and that the trial court improperly
18 considered that the plaintiffs' emotional distress
19 might have been caused by other sources? Isn't that
20 what that case clearly said?

21 ATTY. PATTIS: In part. But it also in the
22 analysis of damages said, we conduct a - and this is
23 a significant case. I thought we'd get to it later.
24 The money question in this case is going to be,
25 Judge, whether the Court gets the right to assess an
26 open-ended punitive damages and CUTPA. And that's
27 the ball that everyone's eye needs to be on. And we

1 will have a motion for a directed verdict at the
2 conclusion of the plaintiffs' case, even in the face
3 of the default, because there has never been a case
4 in Connecticut history that warranted CUTPA damages
5 for protected speech about politics. CUTPA is a
6 trade practice claim, or a trade practice act And
7 Mr. Jones made no defective - made no comments. He
8 didn't engage in unscrupulous advertising about the
9 products he sold. He may have made outrageous claims
10 about the world, and people may have purchased his
11 items. And in plaintiff's version of reality, the
12 reason he made those claims was to drive people to
13 purchase his products. But those claims are not
14 claims about products.

15 And so this is a misapplication about CUTPA.
16 And what's significant about the Richie Main Street
17 case is that the notion that there can be a plenary
18 review of the pleadings to determine whether the
19 pleadings are sufficient to establish a cause of
20 action after default. So we don't take - that's one
21 point. We don't take the position, and I think that
22 the Richie case goes on to say, entry of a default is
23 not the equivalent of admissions of facts pleaded.
24 And so this has been an issue that has come up
25 repeatedly in jury selection.

26 We don't think anything other has been
27 established then the fact that Mr. Jones was

1 defaulted as a result of the Courts conclusion that
2 his and his counsel's compliance with discovery was
3 an intentional flouting of these Courts rules.

4 So I think that with respect to Soto Bushmaster,
5 and I think we're kind of verging into arguments on
6 later motions. The Soto Bushmaster claim, and I
7 think Mr. Jones does have an interest in this, Judge.
8 I've heard him talk about it on the air. I know his
9 mind. I think from his - as his advocate, my
10 perspective is motive and interest in the outcome is
11 never collateral. I was startled during jury
12 selection to see the plaintiffs - I didn't - you
13 never know how your adversary's going to approach a
14 case until you get into a courtroom.

15 They raised in vior dire, people's reaction to
16 guns and gun violence, and whether they had strong
17 positions on it. It will be one of our contentions
18 at trial that what - that these plaintiffs became in
19 effect, I don't know that we'll use the language
20 because we have been defaulted. But they became
21 public figures, in most cases willingly. And sought
22 to leverage the loss of their children into a
23 privileged position and a contentious debate. And to
24 the degree they suffered the scorn of others. What
25 did they expect?

26 And so it seems to me that they placed
27 themselves and their counsel has prided us with

1 notice that they intend to place at the center of
2 this case, the plaintiffs' attitudes towards gun
3 violence. And thus, are they overstating the claims
4 that they have here against Mr. Jones, because of
5 their advocacy with respect to guns. And doesn't the
6 73-million-dollar settlement against Remington
7 suggest that this is a powerful motive for them in
8 bringing this suit.

9 So we think it's central. We think it's in the
10 case. I don't know that there's an identity of
11 interest. For example, I've not studied this
12 settlement in Soto v. Bushmaster yet, to know whether
13 there was a sum allocated for punitive or
14 compensatory damages. But at some point, I think Mr.
15 Jones would say, how much is enough? And if you've
16 already received 35, 40, 50 million dollars in
17 compensatory damages as a result of the suffering
18 from your child's death, cause presumably by the
19 unscrupulous advertising of gun makers, how do you
20 distinguish that from what you're claiming third
21 parties did in response to what Mr. Jones said. And
22 isn't the fact finder entitled to conclude that at
23 some point enough is enough. And I think Jones would
24 like to - I think Jones would like me to argue that.

25 So I disagree with the proposition that a
26 default is the functional equivalent of a request to
27 admit that has been admitted. I think the cases are

1 clear on that. I don't think the default becomes a
2 blank check for the plaintiffs to ask for anything.
3 They still have to prove their case. And I think the
4 fact that other damages and other sources of damages
5 are never collateral. That's why we have laws about
6 preexisting conditions and jury charges, and about
7 superseding intervening causes. And the plaintiffs'
8 need to be held, in our view, in this case, to the
9 burden of proving the claims that they have made, and
10 that Mr. Jones has been defaulted on.

11 Are you suffering intentional infliction of
12 distress as a result of what Mr. Jones said or did?
13 Let's see your proof. And if there are too many
14 links in a chain of causation, such that it becomes
15 essentially speculative, we'll ask the jury to reject
16 it and we'll say that these are people who have
17 entered the fray with respect to guns and gun
18 violence in a major way. They wrangled - they
19 wrangled Soto and Bushmaster to the ground to the 73
20 million dollars. There's no stopping them.

21 THE COURT: But Attorney Pattis, how do I - if I
22 were to do what you wanted me to do on this, I would
23 be going against the law that I'm bound to follow. I
24 mean, it can't be clearer that it would be improper
25 for the Court to allow evidence of other potential
26 sources of, for example, the emotional distress. And
27 that's what you're -

1 ATTY. PATTIS: Why would it be improper? My
2 understanding is, that if there are superseding
3 intervening causes as we claim there are, and if the
4 Court says that the plaintiff is entitled, they must
5 show how much of the judgment prayed for they're
6 entitled to. And I think in showing how much, we
7 fairly get the right to put on other sources.

8 THE COURT: But what about what the Court says
9 in Richie versus Main Street, that said the trial
10 court improperly considered the other sources?

11 ATTY. PATTIS: I think it did so because that -

12 THE COURT: Because the default established the
13 liability for the distress.

14 ATTY. PATTIS: I read it a little differently,
15 and perhaps incorrectly, Judge. I thought that it -
16 that one of the things it said there was, there was
17 no evidence linking the third party, the corporation
18 there. And so I thought that was the null of the
19 holding.

20 THE COURT: Attorney Sterling.

21 ATTY. STERLING: So Richie versus Main Street
22 absolutely says that Judge. It says that the trial
23 court erred in considering another potential cause of
24 emotional distress in an emotional distress claim.
25 And then that was a case where it was a landlord who
26 evicted tenants, and then wrongfully continued the
27 eviction. So let me - first of all Judge, I mean I

1 think the argument you just heard from Attorney
2 Pattis is exactly, exactly why we made this motion
3 and why it needs to be granted. That is just - it
4 doesn't have to do with the facts of the case, and it
5 certainly can't be made post-default, when all that
6 remains an issue is the amount of damages.

7 ATTY. PATTIS: Well, I don't -

8 ATTY. STERLING: May I -

9 ATTY. PATTIS: I cut you off. I'm sorry.

10 ATTY. STERLING: And the amount of damages, it
11 is established that the plaintiffs' damages are
12 caused by the Jones defendants wrongdoing as alleged
13 in the case. I mean that's what a host of different
14 cases say. And we filed a bench brief on causation,
15 your Honor, just to try to make sure that we had put
16 a collection of law on this issue since it does seem
17 to be -

18 THE COURT: So Attorney Sterling -

19 ATTY. STERLING: Yes.

20 THE COURT: - the defendant can contest the
21 extend of the damages, correct?

22 ATTY. STERLING: The defendant can contest the
23 amount of the damages.

24 THE COURT: Right.

25 ATTY. STERLING: What he cannot do - what he
26 cannot do, is ignore the fact that the default
27 establishes that Mr. Jones misconduct was a

1 substantial factor. So that means that questioning
2 as to whether someone else potentially contributed to
3 the plaintiffs' emotional distress, is not
4 permissible.

5 ATTY. PATTIS: I don't see the case as saying
6 that.

7 ATTY. STERLING: That's -

8 ATTY. PATTIS: I don't see a case that says
9 that. We have the thin skulled -

10 THE COURT: Well, why don't we let Attorney
11 Sterling finish and I'll give you another
12 opportunity to respond.

13 ATTY. PATTIS: I apologize, Judge.

14 ATTY. STERLING: Sure. Sure.

15 So this is Richie versus Main Street 110 Conn. App.
16 at 224. And it says, although we agree with the
17 plaintiffs, that the Court - let me see. Hold on.
18 Okay. So it's although we agree with the plaintiffs
19 that the Court improperly considered that Patricia
20 Richie's emotional distress may have been caused by
21 other sources. So that's the key. The Court
22 improperly considered that the plaintiff's emotional
23 distress may have been caused by other sources,
24 because the default established liability for the
25 distress.

26 That's the key language in Richie, and it's very
27 helpful. I mean there are other causation cases that

1 we can also - we have also cited the Court to. But
2 Richie is helpful because it is in the context of
3 emotional distress. So - and it flows, your Honor,
4 from a number of places in default law. So first of
5 all, liabilities established. That necessarily means
6 causation is established. Second. The holding of a
7 case like Smith versus Schneider, which says that the
8 facts alleged are admitted. Even, even if we accept
9 Mr. Pattis' argument that there is some distinction
10 between material facts and facts, which I don't think
11 there is under the case law. I think that they're
12 used interchangeably. But even if we accepted that,
13 causation is always going to be crucial in material.

14 So that is established. And then - and I think
15 it is very helpful to think about it in terms of
16 substantial factor. That it cannot be disputed that
17 the plaintiffs' emotional distress, that Mr. Jones
18 misconduct, was a substantial factor leading to the
19 emotional distress. And that there's going to be
20 questioning and arguing about that, that - this is
21 really important, and because it's going to -

22 THE COURT: Attorney Sterling, I understand the
23 issues and I'm reading the cases the same way that
24 you're reading the cases.

25 ATTY. STERLING: Yes.

26 THE COURT: But that doesn't mean that the
27 defendants have to roll over. Right. They can still

1 cross-examine the witnesses on their emotional
2 distress. Right. The - and contest the extent of
3 what is claimed.

4 ATTY. STERLING: Yes. They can contest the
5 severity.

6 THE COURT: Attorney Pattis.

7 ATTY. PATTIS: There is another case,
8 Temple versus Woolworth 167 Connecticut 631 636.
9 There must be a causal connection in whole or in part
10 between the act complained of and the injury. Then
11 it cites Mahoney versus Buckman. See also Cardona
12 versus Ballantine at 160 -

13 THE COURT: I agree with you too Attorney
14 Pattis. But here causation is admitted, and
15 proximate cause is already established under the law
16 that I have to follow.

17 ATTY. PATTIS: Something -

18 THE COURT: I'm just following the law.

19 ATTY. PATTIS: We agree that they've pled
20 causation. But they have to prove the extent of it,
21 and you can't rule out other sources and say, well,
22 turn a blind eye to everything else, we sued
23 Remington and got 73 million dollars. That was just
24 a frolicking detour. Why'd you sue them? Well, they
25 hurt us too. And can you distinguish those damages
26 from the damages that Mr. Jones caused. And by the
27 way, have you heard of James Fetzer's book, nobody

1 died at Sandy Hook? Did that damage you? How about
2 Mr. Piecznik. How about the professor down in
3 Florida who lost his job for questioning whether
4 Sandy Hook occurred? How about Wolfgang Halbig.

5 All these other people. There was a tsunami of
6 activity out there, and what you'll learn at trial,
7 Judge, is almost nothing is directly linked to Alex
8 Jones. The link will come through highly tenuous
9 expert testimony by people who have a political
10 agenda, which is different from Mr. Jones. And so
11 this case is going to be transformed from a case that
12 should be about proximate cause and the sources of
13 injury, into a political vendetta.

14 And I don't think that's appropriate. And I
15 don't think this Court does either. What's
16 interesting in the cases is, did the Court say
17 plaintiffs are not necessarily entitled even to
18 nominal damages, which is why the Appellate Court
19 conducts a plenary review. And we will say that at
20 the time of the closing to the plaintiffs' case, if
21 you take every allegation in the light most favorable
22 to the non-moving party, there simply is no CUTPA
23 claim here, period.

24 THE COURT: Well, you'll file your motion at the
25 appropriate time on that.

26 ATTY. PATTIS: When the time comes, yes. Yes,
27 Judge.

1 THE COURT: Listen, I am declining the
2 invitation to disregard the law that I am bound to
3 follow. So I am granting the plaintiff's motion.
4 All right. So I have the plaintiffs' motion at 873
5 on former defendants. Defendants' objection at 891.
6 And the plaintiffs reply at 907. So again, I want to
7 see if any of the recent filings change those entry
8 numbers.

9 ATTY. STERLING: It did, your Honor.

10 THE COURT: Okay.

11 ATTY. STERLING: So the corrected motion is at
12 docket number - oh, I'm sorry. Let me just give you
13 what I have, your Honor, and then the corrected
14 motion is at 957. The corrected reply is at 960.
15 And the objection is at 891.

16 THE COURT: Okay. Whenever you're ready.

17 ATTY. STERLING: Yes, your Honor. So this is
18 the motion in limine to preclude evidence and
19 argument regarding resolutions with former
20 defendants. This takes us into very much the same
21 territory as the previous motion, which is we're now
22 dealing with the effects of the default. And so the
23 argument is similar, in fact the overlap is - I mean,
24 partly concerned that they wanted to introduce the
25 Soto settlement. And the Court as I understand it,
26 has just ruled that they cannot.

27 Specifically - so, and this also comes out of

1 the last argument. One of the allegations of the
2 complaint is that the Jones defendants conspired with
3 Wolfgang Halbig and Mr. Sklanka. That is throughout
4 the body of the complaint. Under Smith versus
5 Schneider, that is established now. And so one of
6 the Mr. Halbig's misconduct is attributable and
7 attributed to the Jones defendants by the default.

8 That - now let me turn away from that. I just
9 wanted to make that point because I think it hasn't
10 been made sort of crystal clear yet. And it's an
11 important consequence of the default. With regard to
12 settlements and argument about settlements with Mr.
13 Halbig and any others, that's just inadmissible under
14 our basic case law. That can't come in. Settlement
15 amounts can't come in. Releases can't come in.

16 So this motion addresses that. I don't think
17 that requires much argument. The other issue that is
18 raised by this motion is evidence and argument
19 regarding whether the plaintiff should have sued
20 third party harassers. This gets into that proximate
21 cause issue that we were just talking about in
22 connection with the last motion. Which is
23 essentially an argument by the defendants, that they
24 should be relieved of responsibility for the
25 plaintiff's emotional distress, because there were
26 other actors. And that's exactly the argument that
27 Richie disallows them.

1 So that's it in a nutshell, your Honor.

2 THE COURT: Attorney Pattis.

3 ATTY. PATTIS: The plaintiffs want it both ways.
4 Mr. Halbig's conduct is attributable to Jones because
5 he's a co-conspirator presumably Jones is responsible
6 for that as well. Halbig settled his case over his
7 objection for the policy limits. Genesis
8 Communication settled at the Deck J phase in Federal
9 Court, presumably for the policy limits. If these
10 people are co-conspirators and everybody's in
11 presumably for one another's misconduct, why isn't
12 Jones entitled to the benefit of that when
13 substantial monies have changed hands already?

14 THE COURT: Attorney Sterling.

15 ATTY. PATTIS: Because you're either a
16 co-conspirator or you're not.

17 ATTY. STERLING: Your Honor -

18 THE COURT: That was addressed in one of the
19 cases I read I thought. That issue.

20 ATTY. STERLING: It - so our law is just crystal
21 clear that settlement agreements and numbers do not
22 come in. And there are - I mean, situations
23 certainly where a co-defendant resolves a case, but
24 the settlement amount does not come into evidence.

25 ATTY. PATTIS: We disagree in this particular
26 case because Mr. Halbig was deemed to be an agent of
27 Mr. Jones. He's a co-conspirator. They settled - I

1 know what the sum is. Halbig has contacted us, told
2 us what it is. He showed us his objection to the
3 settlement. His instructions to his lawyer not to
4 settle. But they settled over his objection. That
5 sum was enough for the plaintiffs, why doesn't it
6 begin - if that's enough for a co-conspirator, why is
7 it for co-conspirator A, why isn't it enough for
8 co-conspirator B. And why should we be precluded
9 from making that argument?

10 THE COURT: Do you want to respond to that,
11 Attorney Sterling?

12 ATTY. STERLING: It's Black Letter Law, your
13 Honor.

14 THE COURT: I agree.

15 ATTY. PATTIS: Well, Black -

16 THE COURT: I agree.

17 ATTY. PATTIS: - Letter Law are settlement
18 offers, not amounts. Not in cases where there are
19 co-conspirators and plaintiffs are - or defendants
20 are entitled to an off set.

21 THE COURT: The offset - the offset?

22 ATTY. PATTIS: If you were damaged a million
23 dollars by the bad conduct of other people, and you
24 took 400 from somebody else, are you still entitled
25 to a million dollars from each person? There's only
26 so much harm. This isn't a blank check or a lottery
27 ticket.

1 ATTY. STERLING: Your Honor, absolutely not.
2 That's just not the case law.

3 THE COURT: No, it's not. I'm going to grant
4 the motion. Did we - we have 871.

5 ATTY. STERLING: Hold on. 871 is not the ones
6 that the Court just addressed.

7 THE COURT: 871 is the plaintiffs motion
8 precluding evidence regarding the basis for the
9 Courts default ruling, and the defendant objected at
10 893, and no reply was filed by the plaintiff.

11 ATTY. PATTIS: Judge, we independently moved for
12 permission to put it in. So these motions may have
13 crossed.

14 THE COURT: Well, it was the plaintiff's motion
15 at 871. Defendants' objection at 893. And I had, I
16 thought I had Mr. Ferraro reach out, and I thought I
17 was -

18 ATTY. PATTIS: No. I thought we filed a
19 separate motion in limine for permission to put in
20 the basis for the default.

21 ATTY. STERLING: The defendants did, it's just a
22 different set of motions.

23 THE COURT: Right.

24 ATTY. PATTIS: Judge, I view it as the same
25 issue. I guess that's my - the only point I'm trying
26 to make.

27 THE COURT: Right. So in 871, the plaintiff's

1 filed a motion precluding evidence regarding the
2 basis for the Courts default ruling, and the
3 defendant objected to that motion at 893.

4 ATTY. STERLING: Yes. And your Honor, there is
5 a reply in support of that. It's docket number 904.

6 THE COURT: I thought 904 was in - so I have a
7 plaintiff - I have the defendants' motion at 865
8 regarding the disciplinary default. Then I have the
9 plaintiff's objection at 889. And then I have the
10 defendant's reply at 904. I have three different
11 sets, and I'm going to deal with each of them because
12 it's too easy to be confused.

13 So, why don't I go through the three sets now,
14 and at least we can get the number in right. But I'm
15 going to hear argument separately and I'm going to
16 rule. Unless somebody is withdrawing a motion, I've
17 got to do it this way.

18 So I have again, 871 filed on July 14th.
19 Plaintiff's motion in limine precluding evidence
20 regarding the basis for the Court's default ruling.
21 Then I have the defendant's objection at 893. And
22 let me see the date that that was filed, because I
23 did not write down a date. That was filed on July
24 26, 2022. And I was told that no reply would be
25 filed on that set of motions, because we had other
26 similar sets of motions. Then I have defendant's -

27 ATTY. STERLING: Your Honor -

1 THE COURT: Go ahead, Attorney Sterling.

2 ATTY. STERLING: We ended up filing a reply,
3 which is docket number 904. So we had thought we
4 would not file a reply. That is correct. And then
5 we ended up filing a reply because of some of the
6 things we observed in the Texas trial.

7 THE COURT: Okay. I reviewed 904 in connection
8 with another set of motions, but that must be my
9 mistake. So then I - let's go through this. Then I
10 have defendants' motion at 865 that was filed on July
11 12th. Motion in limine regarding the admissibility
12 of the Court's ruling entering a disciplinary
13 default. Then I have the plaintiff's objection to
14 that at 889. Unless it changed.

15 ATTY. STERLING: No, your Honor, it did not.

16 THE COURT: And then did the defendant file a
17 reply?

18 ATTY. PATTIS: No.

19 THE COURT: Okay. Then I have the issue on the
20 preliminary charge on the default. I have the
21 plaintiff's entry at 876. I have the defendant's
22 objection at 894. I have the plaintiff's reply at
23 934. I have the defendant's sur-reply at 941. And I
24 have the plaintiffs sur-sur-reply if that's that
25 lingo at 954. So did any of those entry numbers
26 change? I'm going to think they did.

27 ATTY. STERLING: Your Honor, actually those

1 entries did not change.

2 ATTY. PATTIS: Yeah, I don't think they did.

3 ATTY. STERLING: The one thing is, I have the
4 Jones defendant's July 25th objection as docket
5 number 892.

6 THE COURT: It is 89 - okay. Well, let me just
7 see. I had 892 and I crossed it out and put 894.
8 But that could again be my mistake, which is why I'm
9 doing this. No, I think 894 I have objection,
10 defendant's objection to motion in limine for
11 preliminary jury charge corrected.

12 ATTY. STERLING: Oh, okay.

13 THE COURT: I think it was originally at 892 and
14 then it was corrected at 894.

15 ATTY. STERLING: Okay. So I'll get my hands on
16 the corrected version. That's my mistake.

17 THE COURT: All right. So just give me one
18 second. So let's start with 871, which is the
19 plaintiff's motion in limine to preclude evidence
20 regarding the basis for the Courts default ruling.

21 ATTY. STERLING: Okay, your Honor.

22 THE COURT: Take your time.

23 ATTY. STERLING: Thank you.

24 THE COURT: This is why I had everything laid
25 across my desk in stacks and literally I just had to
26 go from one stack to the next without any deviations.

27 ATTY. STERLING: My only issue here is that my

1 stacks have moved, so now I have to track them down
2 in different places. Your Honor, so basically this
3 motion is both we anticipated that the Jones
4 defendants would want to explain and argue the
5 default in their presentation. And so the first
6 relieve that this motion asked for is that they not
7 be permitted to do that. Then the second motion -
8 the second relief that this motion asks for, is what
9 we anticipate some of their arguments will be at
10 trial.

11 So for example, criticism of the default ruling
12 coming in Mr. Jones testimony. Criticism of the
13 Court coming through Mr. Jones or potentially other
14 witnesses. Arguments that Mr. Jones was exercising
15 his First Amendment Rights, and - which would
16 contradict the default ruling. He's not permitted to
17 do that because the First Amendment is longer an
18 issue. So there are a number of different types of
19 arguments that we anticipated. And I think I
20 should - let me spend a little more time on that,
21 just because I want to make sure that we address all
22 of the different kinds of arguments -

23 THE COURT: So can we -

24 ATTY. STERLING: Yes.

25 THE COURT: On this one can we just - so there's
26 three areas that I'm understanding. Can we take them
27 one by one, and then -

1 ATTY. STERLING: Yes.

2 THE COURT: - you make your argument and let me
3 hear Attorney Pattis response. So the first thing
4 that you want to preclude is evidence or argument
5 that the Jones defendants satisfied their discovery
6 obligations by making substantial production. Do you
7 have anything to add to that.

8 ATTY. STERLING: I'm just asking myself if that
9 is the complete relief that we would want in that
10 connection. Certainly, we don't - that argument
11 should not be admitted. I think other - just trying
12 to think if my adversary will find a different way to
13 frame it.

14 THE COURT: Well, I'm just pulling the language
15 off of what you want in this motion.

16 ATTY. STERLING: Right.

17 THE COURT: So number one, you -

18 ATTY. STERLING: Right.

19 THE COURT: - want the Court to preclude
20 evidence or argument that the Jones defendant
21 satisfied their discovery obligations by making
22 substantial production. I just don't know if you're
23 adding anything to that before I turn it over to
24 Attorney Pattis. On that issue before - then we have
25 number two, number three.

26 ATTY. STERLING: Yeah. Your Honor let's see.

27 Yes, I am adding something to that because I think

1 that we had argued it throughout the motion. We did
2 include it in that list at the very end. But
3 arguments that the default is unfair. So in that, if
4 the Court would - I mean we certainly meant to
5 include that and what we were trying to do is give
6 examples of this kind of argument. So absolutely
7 we'd want the Court to preclude evidence or argument
8 that the Jones defendant satisfied their discovery
9 obligations by making substantial production. But we
10 would also like the Court to preclude arguments that
11 the default is unfair.

12 THE COURT: Well that would be something that
13 would be argued to the Appellate Court, and I'm not
14 the Appellate Court. Attorney Pattis.

15 ATTY. PATTIS: No, but we are bound by article
16 first second six of the Connecticut Constitution.
17 That says in all prosecutions or indictments for
18 liables, the truth may be given in evidence and the
19 jury shall have the right to determine the law and
20 the facts under the direction of the courts.

21 So, that's - there's no case, Judge. And I'm
22 aware of the broad policy prescription against jury
23 nullification. There's no case that has given that
24 clause of the state constitution, the gloss that I
25 would like it to. But this issue arose periodically
26 in jury selection, where in voir dire my colleagues
27 would say such things as, it's been established that

1 Mr. Jones violated - that this is no First Amendment
2 defense here. And I would object. And from time to
3 time the Court sustained those objections. In one
4 early instance, which I realized isn't necessarily
5 binding as evidence. But in one early instance,
6 saying that's not what the default did. The default
7 was as a result of - it was a disciplinary default.

8 And I think jurors are going to wonder about
9 that. And there is a substantial, potential
10 prejudicial impact of their believing that the merits
11 of these cases have been reached. They were never
12 reached.

13 THE COURT: We could make that clear in an
14 instruction that the merits were - but that's another
15 issue.

16 ATTY. PATTIS: As to - as to the Texas trial, I
17 think Attorney Sterling was a close student of that
18 trial, as was I. I did see Mr. Jones make these
19 sorts of claims that she is referring to here. And
20 these were highly contentious moments at trial.

21 And so we believe that this issue should be put
22 before the jury. That they should see it was a
23 disciplinary default. We believe that it's fair
24 commentary on the default. That's what earned the
25 liability here. And we think that jurors have a role
26 in deciding both law, in fact, under our state
27 constitution in a case involving liable, as this

1 does.

2 THE COURT: All right. So on the first issue,
3 the motion is granted. There will be no evidence or
4 argument that the Jones defendants satisfied their
5 discovery obligations by making substantial
6 production, nor can they attack at the trial court
7 level during the jury trial, that the decision was
8 unfair.

9 Number two. Evidence or argument that prior
10 rulings in this case were the result of judicial bias
11 or plaintiffs' counsel lying in court. Anything to
12 add to that, Attorney Sterling.

13 ATTY. STERLING: No, your Honor.

14 ATTY. PATTIS: Judge, I don't intend to make any
15 argument to that effect. I mean, I don't know why
16 they filed that. We talked about that - I'm not
17 going to attack my adversaries. I'm not going to
18 impute the integrity of counsel or the Court in this
19 case.

20 ATTY. STERLING: And -

21 THE COURT: Well, Attorney Pattis, and I know
22 that. It never occurred to me that you would do
23 that. But these rulings bind your client.

24 ATTY. PATTIS: No, I understand that. I get
25 that, Judge.

26 THE COURT: I - he needs to be crystal clear on
27 - and this is not complicated. It is literally not

1 complicated. If he needs to write it out, each of
2 these - there's not that much. If he needs to write
3 it out ten times over and over again until he
4 understands it. Then that's what he needs to do. If
5 you need to meet with him for - I'm not going to
6 speak to that. But, this - I'm not going to have
7 those kind of problems. This is a different
8 courtroom, different law, different everything. All
9 right.

10 And so that last one is, evidence or argument
11 that holding the defendants accountable for damages
12 is unfair and/or offends the First Amendment.
13 Attorney Sterling.

14 ATTY. STERLING: Yes, your Honor. And I do want
15 to go back. This goes to the argument we'll be
16 making with regard to the preliminary instruction.
17 The Court had indicated that it would entertain a
18 potential jury instruction to say that this case
19 was -

20 THE COURT: I haven't really -

21 ATTY. STERLING: Okay.

22 THE COURT: There's a lot of things that can be
23 said, or that - I want to deal with this separately.
24 That's how it's going to be. Sorry to say.

25 ATTY. STERLING: I will stay on track then, your
26 Honor.

27 Yes. I have - what I want to do is elaborate a

1 bit on the kinds of argument that we anticipate would
2 come under that category.

3 THE COURT: Under this third category?

4 ATTY. STERLING: Under this third category. So
5 and this is part of what we learned from watching the
6 Texas trial. That they're - we would expect
7 testimony and argument that Mr. Jones was penalized
8 already for his conduct regarding Sandy Hook, through
9 de-platforming. Other lawsuits. And the cost of
10 defending those lawsuits. And Mr. Pattis - Attorney
11 Pattis has already made some of those arguments here.

12 So that is all testimony that - or argument that
13 undercut the default ruling. Challenges the default
14 ruling. And so that's part of what we are trying to
15 address here.

16 THE COURT: Attorney Pattis.

17 ATTY. PATTIS: We don't agree that it undercuts
18 or challenges the default ruling. The plaintiff will
19 testify that they want Mr. Jones held accountable. I
20 suspect they will testify that they left it to their
21 lawyers to determine the amount the juries been
22 conditioned that they're going to be asking for a
23 quote, huge, huge amount. This could be the largest
24 verdict in another iteration in Connecticut history.

25 They want Jones held accountable. They want to
26 claim that others similarly situated shouldn't be
27 committed to do what he has done. I think the juries

1 entitled to know what the cost of this has been to
2 him, as they calibrate accountability.

3 THE COURT: You looking to respond?

4 ATTY. STERLING: Your Honor, no.

5 THE COURT: I'm granting the motion. Let me
6 move onto the next one. Just give me one moment.

7 ATTY. PATTIS: Is this the tenth or eleventh
8 topic? Judge, I'm losing track here in my notes.

9 THE COURT: I think we're closing in. I think
10 we have two left. I think this might be number ten.
11 So now we have - and so I'm going to hear argument.
12 The first one, and then argument on the second one.
13 All right. And then rule when I'm done with both
14 arguments. So I have defendant's motion 865. This
15 is on the disciplinary default issue. Then I have
16 the plaintiff's objection at 889. I had the filing
17 as 904, but now I've crossed that off my list. And
18 then we have all the other filings with respect to
19 the plaintiff's request for the preliminary charge.

20 So why don't I start with you, Attorney Pattis.

21 So you want - tell me what you want. You want -
22 with respect to the disciplinary default. What are
23 you looking for?

24 ATTY. PATTIS: To admit to the defaulted self as
25 an exhibit so that they can read it.

26 THE COURT: I can't hear you.

27 ATTY. PATTIS: I apologize. To admit the

1 default ruling as an exhibit. So they can read it
2 and understand why liability was found in this case.
3 The fear is that they'll be an implicit assumption
4 that will bolster the plaintiff's claim that this was
5 outrageous conduct. And that the Court on a previous
6 occasion was so outraged by the speech, that it
7 entered the liability default, thus encouraging
8 jurors to overstate the value of the case.

9 I think that there is a universe in which this
10 item can be admitted without running a fowl of the
11 previous ruling. I concede Judge, that a lot of the
12 arguments overlap in these two contexts. But to
13 avoid an implicit suggestion to the jury that this
14 case must be worth a lot because he was already found
15 liable. I think would be a disservice to Mr. Jones
16 and Free Speech Systems.

17 THE COURT: All right. I don't need to hear
18 argument in this. You're asking in this motion for
19 the transcript to be admitted as an exhibit. I am
20 going to deny that. Whether you're asking for
21 particular language if a preliminary charge is given,
22 that you want language that makes clear that it is a
23 disciplinary default for failure to comply, as
24 opposed to a determination on the merits. Is a
25 different issue. But this - your motion here just
26 asks for my transcript to go in as an -

27 ATTY. PATTIS: It wasn't a transcript, I think

1 there was a - I thought there was a marginal, a
2 notation ruling as well. Doesn't matter, I think
3 it's the same ruling regardless of the form.

4 THE COURT: Whatever order it was. I thought
5 there was actually an order and a transcript. But
6 whatever the Courts articulation on it, I'm not going
7 to allow that as an exhibit. So now we have the
8 last, all the filings. There's six filings that I
9 went through. And whenever you're ready, Attorney
10 Sterling.

11 ATTY. STERLING: Yes. I think the arguments
12 today have made it clear exactly why we need a charge
13 like this. We need a charge like this so that it's
14 clear to the parties and the Court and the jury, as
15 we go forward. As we start opening statements. As
16 we do evidence. What is an issue and what is not an
17 issue?

18 We proposed a really quite simple charge, based
19 on the allegations of the complaint. And that's the
20 charge that we're asking here. And I think one of
21 the reasons why it's so important to give it is,
22 because there just cannot be a grey area here. It
23 needs to be clear to everybody what is established.
24 This charge does not address every single aspect of
25 what the default establishes. It actually is
26 tailored -

27 THE COURT: Attorney Sterling -

1 ATTY. STERLING: Yes.

2 THE COURT: I don't recall in my 20 years on the
3 bench ever laying out in a preliminary instruction
4 when we're giving them all the logistics of how they
5 operate as a jury. And how the mechanics of the
6 trial. I don't ever remember telling them ahead of
7 time, well, here, these are the causes of action and
8 here are the elements. And this is what you need to
9 listen to when you're waiting for the evidence. I've
10 never done it. In fact, I've never been asked to do
11 it. So why would I do it now?

12 ATTY. STERLING: So I think there are a couple
13 reasons to do it now, your Honor. Number one is,
14 because this - it is important that the jury know
15 what is for them to decide and what is not. And some
16 of those things -

17 THE COURT: All right. So why not just say,
18 like we did - this is a hearing in damages. You are
19 not to consider liability and end it there. Your job
20 is to assess the damages.

21 ATTY. STERLING: Your Honor, the Court could do
22 something like that. Certainly - no, no, I
23 understand that. I think that one of the issues with
24 doing that, is that that would then leave open the
25 question for the Court and counsel about what is
26 resolved. So I do understand the Courts point that
27 there are two separate things going on here. Number

1 one is, what is the minimum that the jury needs to
2 hear. Number two is, are the Court and counsel
3 crystal clear on what is resolved by the default.
4 And in my -

5 THE COURT: Well, that doesn't require a
6 preliminary charge. Right?

7 ATTY. STERLING: That's correct.

8 THE COURT: You're saying that you want us, the
9 Court and counsel to be on the same page. But you're
10 also saying but for us to be on the same page, we
11 have to tell the jury. And that's not - that doesn't
12 follow.

13 ATTY. STERLING: So your Honor, what I am trying
14 to say is, it is most important that we all be on the
15 same page. I think that we have already told the
16 jury about some of the conduct, and about the fact
17 that liability is established. Conveying this much
18 more, which is really not much more than what the
19 Court originally did when it introduced the case. Is
20 important. And it's not intended to be prejudicial,
21 judge. What it intended to do is set the table so
22 that they understand the issues.

23 THE COURT: Just give me one moment, please? So
24 I just lost where I was. So give me the entry number
25 of the docket number that you're laying out your
26 proposed language. If you don't mind. I had it and
27 I clicked out too many times and lost it.

1 ATTY. PATTIS: I think it's 934.

2 ATTY. STERLING: Sorry, your Honor.

3 THE COURT: 934.

4 ATTY. PATTIS: That's what my notes reflect, but
5 I may be wrong.

6 ATTY. STERLING: I'll get to it, Judge.

7 THE COURT: That's it. I think. It was
8 revised, right?

9 ATTY. STERLING: Yes.

10 THE COURT: So 934 is the most recent iteration.

11 ATTY. STERLING: Yes. I mean, we filed a
12 version with citations to the complaint in the
13 sur-reply, but it's verbatim the same as what's
14 proposed.

15 THE COURT: Right.

16 ATTY. STERLING: In 934.

17 THE COURT: What else, Attorney Sterling?

18 ATTY. STERLING: Your Honor, I don't think I
19 have anything to add. I mean, this is intended to be
20 faithful to the complaint, establish the sort of
21 basic parameters for the jury. Obviously, I'd be
22 happy to go back and forth with counsel if there are
23 words that he objects to. And I also acknowledge
24 that the Court has discretion about a charge like
25 this.

26 THE COURT: Yeah. I don't like it. It's way
27 too long. And - all right. But Attorney Pattis -

1 ATTY. PATTIS: The Court -

2 THE COURT: But I think something is necessary,
3 and it sure would have been nice if you could have
4 been on the same page. But Attorney Pattis, what do
5 you -

6 ATTY. PATTIS: The Court has the benefit of
7 having sat through almost all of the voir dire. But
8 for a couple hours one day when there was a meeting.
9 We had a joint non-argumentative statement that we
10 agreed upon. I don't recall a juror having
11 difficulty with that statement. I don't recall voir
12 dire being particularly difficult. I think we all
13 expected it to last a lot longer than it did. I
14 think it lasted seven, eight days. I believe that
15 statement was sufficient to apprise -

16 THE COURT: Ron tells me it was seven. Is that
17 right, Ron? I thought it was eight, but it was
18 actually seven. And I think we ended up getting 12
19 and lost one. So I can't disagree with that. But,
20 listen, I think that the proposed language is not
21 even close to what I would say. But here's the truth
22 of the matter. I sure don't want to suggest because
23 it would not be true. I sure don't want to suggest
24 to the jury that I made any substantive
25 determinations on any of these facts or causes of
26 action. Because that would just not be true. But I
27 think there's probably a way to do it. Telling them

1 not to speculate and just say the Court has
2 determined that liability is established for reasons
3 you don't have to concern yourself with. And you
4 should not speculate on. And your job is to address
5 damages. Something along those lines. And I don't
6 think I'm opposed to laying out what the basic causes
7 of action are by name. But I'm not looking to do
8 anything this detailed.

9 I don't think there really can be any, based on
10 the rulings that we've gone through today, and I know
11 we still have the two minor ones. But I don't think
12 that anyone here is not understanding what the
13 evidence will entail. And I just don't see a need
14 for something this long.

15 So do you want -

16 ATTY. PATTIS: Judge, give us an opportunity to
17 digest what has occurred here this afternoon, and
18 perhaps Attorney Sterling and I can compare notes
19 tomorrow afternoon with the aim of reaching an
20 agreement. We did so on the preliminary voir dire.
21 If you think more is necessary then what was given
22 then, then I will work with Attorney Sterling to try
23 to come up with something.

24 THE COURT: Not much more. Just, you know, just
25 a - but I just want to be careful like I said, not to
26 suggest that the Court substantively addressed the
27 legal issues. But I don't want them to speculate.

1 But I would like to just say these are the causes of
2 action or something along those lines, so they have
3 some minimal guidance. And if you want to say
4 something along of the lines that, in light of the
5 Courts ruling, Mr. Jones is precluded from raising
6 defenses. You know, follow the law, and see if you
7 can come up with something along those lines. But
8 not too long.

9 ATTY. PATTIS: Understood.

10 THE COURT: Okay. So I'm going to deny the
11 motion without prejudice for you to see if you can
12 reach agreement. Listen, if you can't, I'm going to
13 have to be left to my own devices and come up with
14 something. I'd much prefer that you put your
15 reasonable heads together. You can do better than I
16 can probably, so I'm going to keep my fingers
17 crossed.

18 All right. Any - did I miss anything?

19 ATTY. PATTIS: Judge, you said there were two
20 more things, and I didn't know what those were. You
21 just said it a couple of minutes ago, and I thought
22 we covered it all.

23 THE COURT: No, the two - yeah - yeah - yeah.
24 The issue with Attorney Paz. With the Google
25 analytics. And then the issue with the Dew Bidondi
26 text messages. Those are the two -

27 ATTY. PATTIS: So I've already, during the break

1 I put out a request for affidavits to my contacts
2 down there.

3 THE COURT: Right.

4 ATTY. PATTIS: And my understanding is, I've got
5 to get them in Thursday. I'll get them in as
6 promptly as I can.

7 THE COURT: All right. So those are the two
8 issues that I have to rule on. Everything else on
9 the long list, I think we were able to get through.
10 Mr. Ferraro, anything that you can see that I missed,
11 or any other housekeeping issues?

12 THE CLERK: No, your Honor. Not for the
13 motions, not for those pending motions.

14 THE COURT: Perfect answer for this time of day.

15 ATTY. STERLING: Oh, your Honor, I apologize.
16 I've got one more.

17 THE COURT: Oh, Attorney Sterling.

18 ATTY. STERLING: I know. I know. Docket number
19 897. It was never ruled on. It's on consent. It's
20 a late expert disclosure motion.

21 ATTY. PATTIS: Yeah. Attorney's fees guide.

22 ATTY. STERLING: Yeah.

23 ATTY. PATTIS: Is that right?

24 ATTY. STERLING: Yeah, me and Chris.

25 ATTY. PATTIS: Yeah - no, we - Judge, in the
26 event that a - in the event that punitive - in the
27 event the jury elects to award punitive damages, I

1 think the Courts going to have to decide the
2 reasonableness of attorney's fees. And I think we've
3 agreed that that would take place post-trial, and
4 there'd be ample opportunity to depose that expert,
5 when the press of other business wasn't upon us. I
6 don't know, Alinor, did I overstate that?

7 ATTY. STERLING: No. That's - that's correct.
8 We have agreed that reasonable amount of attorney's
9 fees would be deferred until after this proceeding.

10 THE COURT: Okay.

11 ATTY. STERLING: And I just wanted to make sure
12 because that's been a loose end.

13 THE COURT: I just did it.

14 ATTY. STERLING: Excellent.

15 THE COURT: Okay.

16 ATTY. STERLING: Thank you.

17 THE COURT: All right. So I just - very
18 quickly. Ron will confirm our jurors on - today's
19 Tuesday - on Thursday. And let's hope that we don't
20 have to pick on Monday. Okay. But just keep in mind
21 that there is a possibility that we would have to
22 pick Monday morning. But let's keep our fingers
23 crossed. All right.

24 ATTY. STERLING: Your Honor. I apologize. I've
25 got one more thing to raise.

26 ATTY. PATTIS: Just deny this one, Judge,
27 without even hearing it.

1 ATTY. STERLING: I know I run that risk. I am
2 concerned, I remain concerned that even with all of
3 the Court's rulings, that there may be some lack of
4 clarity. For example, about what can be argued in
5 opening statement. You know, I think it's clear that
6 causation cannot be argued.

7 THE COURT: Attorney Sterling, why don't you
8 talk to Attorney Pattis, and see if there are any - I
9 mean for heavens sakes, it's opening statement. I
10 can't imagine it's going to be issue. If it in fact,
11 your concerned that somethings going to rise during
12 the opening statement, then we'll have you come in
13 Tuesday at 9, just let Ron know and I'll deal with it
14 Tuesday at 9. Okay.

15 ATTY. STERLING: I appreciate that.

16 THE COURT: I would rather not do - and Attorney
17 Pattis, I've already made an note to myself, I've
18 diaried it, to make sure that I sort of canvas your
19 client on the issue that we talked about. If there's
20 anything else that you think needs - obviously
21 outside the presence of the jury, but if there's
22 anything else along those lines that you would like
23 me to say on any of the other rulings. And I know
24 you're going to do your job, but if you think that it
25 would be helpful for the Court to do so, talk to
26 Attorney Sterling and let me know before - let me
27 know by Friday. Okay.

1 ATTY. PATTIS: He's not likely to testify before
2 the end of next week. So you need to know this
3 Friday, Judge?

4 THE COURT: I do, because I have such a long
5 list of things to do, not just in this case -

6 ATTY. PATTIS: Okay. Got it - got it - got it.
7 If you need it, you need it. Got it.

8 THE COURT: I have to - yeah. Okay. All right.
9 Stay well everyone. We're adjourned.

10 ATTY. STERLING: Thank you, your Honor.

11 (The matter concluded).

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DKT NO: X06-UWY-CV186046436-S : COMPLEX LITIGATION DKT
ERICA LAFFERTY : JUDICIAL DISTRICT WATERBURY
V. : AT WATERBURY, CONNECTICUT
ALEX EMRIC JONES : SEPTEMBER 6, 2022

DKT NO: X06-UWY-CV186046437-S

WILLIAM SHERLACH

V.

ALEX EMRIC JONES

DKT NO: X06-UWY-CV186046438-S

WILLIAM SHERLACH

V.

ALEX EMRIC JONES

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and correct transcription of the audio recording of the above-referenced case, heard in Superior Court, G.A. #4, Waterbury, Connecticut, before the Honorable Barbara Bellis, Judge, on the 6th day of September, 2022.

Dated this 8th day of September, 2022 in Waterbury,
Connecticut.

Darlene Orsatti

Court Recording Monitor